

Ethnicity and Human Rights: Finding Out a Linkage in Conflict and Conflict Resolution*

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Abstract

The purpose of this paper is to establish a kind of linkage between human rights and minority groups. The paper consists of three principal chapters divided into a few sub-sections. **Chapter I** deals with a few theoretical reflections on the concepts of ethnicity and human rights.

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The discussion on ethnicity includes the indigenous peoples because they possess the same traits observed in the case of ethnic minorities. In addition, there have been efforts in recent times to bring this group within the purview of human rights. **Chapter II**, of an empirical nature, deals with the above-mentioned case studies to show that violation of a few important elements of human rights is both an actual and potential cause of ethnic conflict. **Chapter III** seeks to throw light on the mechanisms of conflict resolution undertaken to mitigate the conflicts mentioned in the case studies. The paper concludes that if violation of human rights is the actual or potential cause of ethnic conflicts, then conflict resolution is made much easier by addressing the human rights issues. In this sense, addressing multivarious human rights issues would act as a kind of preventive measure for arresting conflicts.

Key words: Human rights, ethnicity, conflict resolution, indigenous peoples.

La etnicidad y los derechos humanos: buscando vínculos en el conflicto y la resolución de los conflictos

Resumen

El propósito de este trabajo es establecer un vínculo entre los derechos humanos y los grupos minoritarios. El trabajo consiste en tres capítulos principales divididos en algunas sub-secciones. El **Capítulo I** trata de unas reflexiones sobre los conceptos de la etnicidad y los derechos humanos. El discurso sobre la etnicidad incluye a los pueblos indígenas, ya que ellos manifiestan los mismos rasgos observados en los casos de una minoría étnica. Además, en tiempos recientes, han habido también esfuerzos para traer este grupo dentro de la esfera de los derechos humanos. En el **Capítulo II**, empírico por naturaleza, se tratan los casos mencionados anteriormente para mostrar que la violación de algunos elementos importantes de los derechos humanos, es una causa a la vez actual y potencial de conflictos étnicos. El **Capítulo III** busca derramar

luz sobre los mecanismos de resolución de conflictos que han sido emprendidos con fines de mitigar los conflictos mencionados en los casos estudiados. El trabajo concluye que si una violación de los derechos humanos es la causa actual o potencial de conflictos étnicos; entonces, la resolución de los conflictos se vuelve mucho más fácil al tratar los temas de derechos humanos. En este sentido, tratar una diversidad de temas en derechos humanos, funcionaría como una especie de medida preventiva para detener los conflictos.

Palabras clave: Derechos humanos, etnicidad, resolución de conflictos, pueblos indígenas.

Introduction

In the post-war period, many countries have been experiencing ethnic problems, in one form or the other, for many years or even decades since their respective independent existence⁽¹⁾. Such problems have manifested themselves in violent conflicts between the state authority and the ethnic minorities leading ultimately to a form of separatist movement carried on by the latter against the former. This separatist phenomenon seems to have challenged the liberal views that under the imperatives of nation-building and development, an overarching sense of national identity and state wide loyalties would eclipse the existing parochial or subnational ethnic loyalties. Equally has been proved wrong the Marxist view that ethnicity is an evanescent and retrograde phenomenon likely to be ultimately transcended by class solidarity and the struggle between the capitalist and the working class (Welsh, 1995: 44).

In effect, the ethno-political turbulence and conflicts in most of the countries have been caused due to what is generally called *uneven dynamics of national integration*. As empirically observed, most of the countries, in their efforts towards development, have kept the issue of economic, political and cultural upliftment of the ethnic minorities in abeyance and that the sense of deprivation of the minorities has been grossly misperceived with little or efforts

to redress it on the part of the ruling authority. In other words, any kind of resource sharing with the minorities or giving them few social and cultural privileges was viewed by the states as a diversion from the attention that the majority deserved first. And this feeling generated out of a very complex socio-psychological tendency of seeing the majorities in positive terms, and conversely, the other groups in negative terms. As a result, efforts have been rendered by the states to bring the minority classes within the politico-economic and cultural system of the dominant group through means mostly exploitative, discriminatory and coercive in nature. In the process, aggrieved sentiment, discontentment and frustration of the minorities found their outlet in the form of violent movement challenging the state authority over them. And once such movements have been launched, one notices more repressive measures and atrocities perpetrated on the ethnic minorities of the states.

While most of the political, economic, and cultural demands of the ethnic minorities constitute what can be termed as the universal rights of a human being, the state authorities have refused to grant them to the minorities on the ground that this would further crystallize the distinct identity of the group in the national polity with the potentialities for diluting the monolithic identity of the majority. In addition, most of the states still remaining locked up in a debate over the meaning, interpretation and application of human rights, find it unpalatable to further extend the issue by adding an ethnic dimension to it. However, the fact that an ethnic identity is created by an aggregation of certain variables like race, class, religion, culture, traditions and values etc. leads one to ultimately link ethnicity with human rights in so far as the protection of such traits is concerned. The linkage, probably, is not without its rationale. The ethnic minorities are the human beings like the majorities and as human beings they deserve the protection and guarantee of their rights in a way as is done in the case of the state's majority. As a result, the human rights re-

gime, both at the international and domestic levels, can no longer remain indifferent to some of the distinct traits of an ethnic minority and to the rights that flow from them.

In above light, one can probably argue that there is a *causal relationship* between ethnicity and human rights. The argument finds it's root not merely in the theoretical and normative linkage between human rights and ethnicity, but also in the emprical evidences of human rights violation as the foremost cause of a number of ethnic conflicts in recent times. Given the fact that human rights constitute a body of normative principles for guaranteeing the security and well-being of the masses, the common wisdom would suggest to look at any ethnic conflict as the outcome of the violation of all such principles. However, in reality, the case may not be so. The violation of mere one or two of the principles of human rights is sufficient and may have the potentialities to ignite an ethnic conflict in any given polity. If studied deeply, these principles are the ones that not only endow the ethnic minority with a distinct group identity but as well are the ones to secure it's existence and survival in perpetuity. What then are these principles? Keeping this query in mind, the research burden of the paper would be to show that certain of the very precious 'belongings of ethnic minorities' need protection as basic human rights, and in the event such objective is not realised, the consequence would be the conflagration of ethnic conflicts in several of its forms. The stated argument would be supported by few empirical case studies taken from countries like Bangladesh, Sri Lanka, Bhutan, and Venezuela.

1. Chapter I

1. Finding the Linkage between Ethnicity and Human Rights: Few Theoretical Reflections

The concepts, ethnicity and human rights, are very closely interconnected with each other. If human rights is believed to be

a body of certain rules and prescriptions for protecting the individuals from the exercise of state or governmental authority in certain areas of their lives and as well the creation of certain societal conditions by the state in which individuals may develop to their fullest potential, then it is obvious that ethnic groups as individuals of the society come under the same protection as desired by the human rights regime. In this connection, certain questions beg explanation like: i. what is ethnicity and how does it figure in the broader canvas of human rights? ii. are there the effective international instruments or mechanisms for enforcing human rights in case of the ethnic minorities? iii. why and how do the ethnic minorities become the subjects of human rights violations? iv. at what stage of the violation of human rights, the ethnic minorities enter into a conflict with the state authority? v. finally, in what way does the conflict fulfill the minority's objectives? These and few other related problematic questions would be addressed in the chapter to throw few theoretical reflections on the two concepts, ethnicity and human rights, and to study the linkage that exists between them.

2. Ethnicity and its Parameters

It would not probably be wrong to say that the term ethnicity finds its elaborate expression more in the literary works of the anthropologists and sociologists than in those of the political scientists. However, in defining the term, the anthropologists and the sociologists, despite their overarching interest in the indigenous peoples, have carefully avoided any lumping of the two under the same category. Despite this distinction, there is still the tendency to look at ethnic peoples not only as indigenous but as tribes, clans, wandering nomads and sometimes even as bandits. In somewhat erratic manner, the increasing number of ethnic conflicts in recent times has played no less a role in further extending the concept to groups like rival gangs, extremists and warlords. As a result, in order to avoid the semantic confusion

around the concept of ethnicity, it is necessary to make an inquiry into it with some definitions.

In its most ordinary sense, ethnicity refers to a group of people who define themselves as different from the rest of the populace by referring to some tangible points as linguistic, cultural, tribal or religious similarities. Oxford Dictionary of Current English defines ethnicity, *inter alia*, as "... a social group having common national or cultural tradition ... denoting origin by birth or descent rather than nationality ... relating to race or culture" (Parmand, 1992: 114). The New Lexicon Webster's Dictionary of the English Language has defined the word as "of relating to a people whose unity rests on racial, linguistic, religious or cultural ties ... deriving from or belonging to such racial etc. ties of a people or country" (Parmand, 1992: 115). Thus, these two famous dictionaries make it clear that the word ethnic denotes the commonality and unity of a group of people which is based on racial, linguistic or cultural ties. It is also obvious by the explanations given in these dictionaries that origin by birth or descent, as different from origin by nationality, is of essence in determining somebody's ethnic salience.

As noted by Fredrik Barth, an anthropologist, "the identity that the ethnic groups claim stems from a real or believed common ancestry of the group, symbolized or expressed in shared characteristics such as common race, language, religion, customs, or –even more intangibly– in a historically derived consciousness of being a group" (Suhrke and Garner, 1977: 4). Thus, to him, the Eritreans possess a group identity derived from being administered as a separate entity in the past despite the absence of common language, religion, race or culture among them. Following Fredrick Barth, few other anthropologists tend to argue that many groups like the Eritreans constitute ethnic groups because they perceive themselves, and arperceived by others as being a separate group. For Barth and the others, the critical features of an ethnic group are that it is ascriptive and exclusive: its continu-

ity depends on the maintenance of a boundary. The critical point to note here is that the properties of ethnic groups are similar to the ones commonly used in defining nationalities (Suhrke and Garner, 1977: 4).

“It should be noted that many countries have defined ethnicity in the light of their respective ethnic composition. For example, in Australia, “ethnicity” is a term generally reserved for immigrants or Australians born overseas; it is not applied to indigenous peoples” (Brown and Ganguly, 1994: 13). Such definition, however, lacks scientific rationale in view of the fact that the immigrants coming from a cross-section of countries with different background may not possess distinctive language, customs, and memories—traits to give them a sense of unity and cause them to distinguish themselves from the others— all of which constitute the basis for ethnicity.

For the purpose of our study, a very comprehensive definition of ethnicity furnished by Anthony Smith may be well selected. According to him, “an ethnic community is a named human population with a myth of common ancestry, shared memories, and cultural elements; a link with a historic territory or homeland; and a measure of solidarity” (Brown and Ganguly, 1994: 4). The definition points out six definite criteria that must be met before a group can be called an ethnic community. *First*, the group must have a name for itself reflecting a sufficiently developed collective identity. *Second*, the people in the group must believe in a common ancestry. This is more important than genetic ties, which may exist, but are not essential. *Third*, the members of the group must share historical memories, often myths or legends, passed from generation to generation by word of mouth. *Fourth*, the group must have a shared culture, generally based on a combination of language, religion, laws, customs, institutions, dress, music, crafts, architecture, even food. *Fifth*, the group must feel an attachment to a specific piece of territory, which it may or may not actually inhabit. *Sixth* and last, the people in a group have to

think of themselves as a group in order to constitute an ethnic community; that is, they must have a sense of their common ethnicity. The group must be self-aware.

The stated definition probably provides some of the parameters for bringing the issue of indigenous peoples within our discussion on ethnicity. It would not probably be an exaggeration to say that these peoples have been kept away from the ethnic discussion due to parochial and myopic attitude of the researchers, notwithstanding the fact that they too possess, like the ethnic groups, many distinctive traits to given them a definite identity like territory, language, common history, race, etc. The similarity between ethnic groups and the indigenous peoples gets its transparent expression in the definition provided by the United Nations Economic and Social Council (ECOSOC) in 1971. The definition has been provided after a careful study on the conditions of a number of indigenous peoples around the globe. The study defined indigenous peoples in the following words: "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, on the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system" (Anaya, 1991).

In effect, the exclusion of the indigenous peoples from the societal framework, is, in part, explained by the fact that they have been the victims of an external aggression by the superior forces following which there have been attempts either to exterminate them (mostly in the US) or to keep them subjugated. In many cases, there have been the attempts to assimilate them in the society through forceful means and in the event of their refusal to

accept the assimilation ideology, they were compelled to live in the forests, hills or deserts. However, their importance lay in the fact that they constituted an interesting field of anthropological studies, in particular political anthropology, for a number of researchers in the field. The old age taboo against this group of peoples was not expected to continue for long. Given the fact that there are hundreds of millions of indigenous peoples throughout the world (for example Navajos and Apaches in the US, Inuits in Canada, Yanomamo in Brazil and Venezuela, Maya in Mexico and Guatemala, Soumy in Sweden, etc.) whose well-being has been threatened for several centuries by Western expansion, population growth, state sovereignty, economic growth, state sovereignty, resource exploitation and a host of other forces (Snarr, 1998: 54), the international community cannot remain indifferent to their cause. In particular, they have drawn attention in recent times due to a number of wars and conflicts related to the rights of the indigenous and ethnic groups.

While it is true that the researchers in the field of their ethnicity related studies are still reluctant to include the issue of indigenous peoples within the scope of their works, nonetheless, the activities of a number of peace, human rights and gender related activists across the globe in favour of the indigenous peoples bear ample testimony to the fact that the issue of indigenous peoples, with many of its social, cultural, political and economic dimensions, is still a living human phenomenon in contemporary world. As Michael E. Brown and Sumit Ganguly in their introduction to the book (edited) entitled: *Government Policies and Ethnic Relations in Asia and the Pacific*: "...calling indigenous peoples 'ethnic groups' will be at odds with the terms of discourse in Australia and New Zealand, for example, but we think there is a good case to be made for including these peoples in our discussion" (Brown and Ganguly, 1994: 13).

The definition furnished by Anthony also provides us with a cluster of factors like political, economic, social, cultural or terri-

torial that constitute some of the rights that the ethnic peoples can genuinely claim. By all logical conclusions, they are the political, cultural, economic and social rights of the ethnic minorities, and are, therefore, no less similar to the ones enjoyed by the majority in a given state. These rights are equally applicable in case of the indigenous peoples, not on a normative, but on rational and legal ground. What correlation does then one find between these rights and those pronounced in the Universal Declaration of Human Rights (UDHR)?

3. Defining Human Rights

As mentioned earlier, if human rights as a phenomenon envisages the creation of certain societal conditions in which individuals may develop to their fullest potential, then few inevitable questions that need addressing are: what are human rights? what rights among these should normally receive the priority to ensure the well-being of human beings? are there the institutions or the instrumentalities for the protection of human rights?

The term human rights has been employed generously with little attempt to define it. One UN document refers to them as "*inalienable and inviolable* rights of all members of the human family. In the same light, one scholar opines" (Snarr, 1998: 46). The very term human rights indicates both their nature and their sources; they are the rights that one has simply because one is human. They are held by all human beings, irrespective of any rights or duties one may (or may not) have as citizens, members of families, workers, or parties of any public or private organization or association. In the language of the 1948 Declaration, they are "universal rights" (Snarr, 1998: 47).

In order to understand the concept of human rights in the contemporary world, it would be relevant to divide the concept into three generations or classes as generally approved by the UN and its members. The first generation of rights is said to be civil and political and are contained in Articles 2 through 22 of the

Universal Declaration of Human Rights. This branch of rights focus on the rights of the individual and to some extent emphasize the responsibility of countries to refrain from unjustly interfering in the lives of their citizens. The rights that fall within this category relate to freedom from discrimination based on one's status, such as race or gender, the right to life, liberty, and security, freedom from slavery and torture, equal treatment by the law, including freedom from arbitrary arrest, detention and exile, and the assumption of innocence until proven guilty. Internationally, this generation of rights has received the greatest emphasis. The second generation of rights, contained in Articles 23 to 27 of the UDHR and elaborated in its several conventions, including the right to social security and work with fair remuneration, the freedom to join unions, the right to rest, leisure and an adequate standard of living (including food, clothing, housing, and medical care) and an education, the right to the cultural life of one's community, and the right to the moral and material interests resulting from any scientific, literary or artistic production of which one is author. More than the first generation of rights these necessitate a proactive government acting on behalf of its citizens. They establish an acceptable standard of living for all—that is, a base of equality (Snarr, 1998: 47).

The third generation of rights is referred to as solidarity rights since they require the cooperation of all countries. Article 28 of UDHR states that everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be realized. These rights do not have the status of other rights and are in the process of being formulated. Burns Weston says in the following about them: "Three of these reflect the emergence of Third World nationalism and its demand for a global redistribution of power, wealth, and other important values: the right to political, economic, social, and cultural self-determination; the right to economic and social development; and the right to participate in and benefit from the "common heritage

of mankind" (share earth-space resources, scientific, technical, and other information and progress, and cultural traditions, sites and monuments). The other three third-generation rights –the right to peace, the right to a healthy and balanced environment and the right to humanitarian disaster relief– suggest the importance or inefficiency of the nation-state in certain critical aspects" (Snarr, 1998: 47).

The above broad classification of human rights should not lead one to be optimistic about their enforcement. Like all other customary international laws, the UN conventions that require the nation-states to abide by the human right do not necessarily have any binding obligation on the nation-states. The well known fact is that the UN supports the principles of self-determination and non-intervention for its member states (the principles of state sovereignty). Out of this contradictory situation has slowly emerged a worldwide discussion of human rights and some movement in the direction of human rights support. Thus, with reference to human rights, the UN serves primarily as an oversight organ and a forum where these issues are brought to public attention. In terms of action, the UN generally responds slowly and with uncertainty, subject to the interests of powerful governments. "The perspectives and capabilities of UN are generally long term and indirect, so that direct, effective human rights protection remains an elusive goal" (Davidson, 1993: 25).

4. Ethnicity and its Place in the Human Rights

The preservation of ethnic minority rights in institutional forms does not seem to have a force to history behind it in so far as the effectiveness of such institutions is concerned. It may be mentioned that before World War I and in the interwar period, the assumption was that ethnically homogenous states were the best vehicles for the protection of citizens' rights. Flowing from this assumption, there was greater willingness to consider re-drawing borders and exchanging populations as ways of creating

more homogenous states. Thus, for example, an international treaty provided for an involuntary exchange of populations between Greece and Turkey in the 1920s. In situations in which exchanges were not possible, international treaties securing guarantees of minority rights were seen as necessary and appropriate, not as unwarranted intrusions into domestic affairs. This is because following the post war settlement, the reestablishment of Poland and the creation of successor states to the old Austro-Hungarian Empire meant that state boundaries would inevitably create divisions among certain peoples and consign them to live as ethnic.

As a result, a number of treaties were therefore concluded between the Allied Powers and these states to secure the protection of civil and political rights of the minorities. Mention may be made about the specific minority protection treaties concluded by the Allied Powers with Poland, Czechoslovakia, Romania and Greece, while provisions on the protection of minorities were included in the peace treaties with Austria, Hungary and Turkey.

Such arrangements, however, backfired and had catastrophic consequences. Not only did they increase resentment of minorities, they became the pretext under which Germany later invaded surrounding territories, ostensibly (Davidson, 1993: 25) to protect German minority populations. As a result, this experience discredited the whole notion of international legal instruments to protect minorities. One important point to be observed is that the minorities protection treaties were not concerned with the question of individual rights but rather with the rights of groups. The main purpose of the treaties was to ensure the equal treatment of the ethnic, religious or linguistic minorities in the states in question and allow the peoples constituting these groups to preserve and develop their own distinct identities within the framework of the nation-states.

The provisions of article 73 of the charter refer to “respect for the cultures of peoples”, their political aspirations, the development of free political institutions according to the particular circumstances of each territory. But these references fall under the heading of the “declaration regarding non-self-governing territories; and they do not cover minorities within member states. Within the UN, the protection of minorities within and among states has tended to become the responsibility of the Human Rights Commission. But the Commission remains prey to government’s reluctance or indifference to any human rights case. In effect, approach to minority rights in the UDHR has been made a very classic individualistic and libertarian fashion, envisaging that if the rights of each member of an ethnic minority could be secured, it would not be necessary to worry about the rights of groups. However, simple provisions for nondiscrimination, as included in the UDHR, tend to be seen by members of ethnic or religious minorities as prescriptions for assimilation. The international Covenant on Civil and Political Rights is a bit more specific about minority rights, but is still primarily defensive (Ennals, 1988: 112).

The watershed development in the UN with respect to the minority question is probably the UN General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities, a document that is more assertive than previous UN instruments. It was first introduced in 1978 –ironically, by Yugoslavia. It contains no definitions of minorities, leaving some room for ambiguity. Some would argue that its provisions should be applied to sociological, as well as numerical, minorities to be applicable to subordinate groups that are numerically numerical, minorities to be applicable to subordinate groups that are numerically superior, such as black majority in South Africa or the indigenous population in Guatemala (Ennals, 1988: 112).

The declaration enjoins states not just to prevent discrimination against minorities, but to protect and promote their identity

and rights. Article I states that "States shall protect the existence and the national or ethnic cultural, religious, and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of their identity. States shall adopt appropriate legislative and other measures to achieve those ends". Article 4.1 reads: "States shall take measure where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in fully equality before the law". Other articles go on to confirm, *Inter alia*, rights of political and economic participation, education, free association (including contact with other members of the minority, even across national borders), and to assert that "national policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities" (article 5.1) (Davidson, 1993: 44).

Although like other UN human rights instruments, there are no enforcement or implementation measures attached to the declaration. However, it does reaffirm the treatment of minorities as a legitimate concern of the international community. More important, it creates some hope that the United Nations may take a more active role in the monitoring and protection of minority rights, thus helping to prevent situations from deteriorating to a point at which members of certain groups become the victims of human rights violation.

The same commitment exists for the indigenous peoples who had to struggle permanently for the recognition of their specificity and human rights. Their struggle was a just cause since many have confused the indigenous peoples with ethnic, religious or linguistic minorities, categories in which they do not fit. They have their own language, culture, religion, customs etc., but also in particular, their own relationship with the earth. Thus, through the international human rights programme, the indigenous peoples and their supporters have been successful in moving states

and other relevant actors to an ever closer accommodation of their demands. Several years of works on the Draft Declaration on the Rights of Indigenous Peoples under the aegis of the UN deserves one's attention. For example, article 27 states: "Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and within resources equal in quality, size and legal status" (Snarr, 1998: 54). However, the question self-determination of the indigenous peoples continues to remain an issue of controversy at the moment.

5. Ethnicity and Violation of Human Rights

At the outset, it should be borne in mind that the ethnic minorities live in a world characterized by its own exclusive socio-cultural and psychological distinctiveness. This in-group sentiment or the inclusiveness of a particular ethnic group always keeps it at the periphery of the society. In the process, there develops a complex psychological syndrome where the majority sees the ethnic group as a *minority which exists only to be ruled*. The attitudinal problems between these poles further exacerbate the misperception of one towards the other. The image of the minority in the eyes of the majority is "one of a cluster of people" whose inward looking tendency is detrimental not only to the society's cohesiveness but to the sovereignty of the state as a whole. Thus, on most occasions, the ethnic minorities are dubbed as the enemies of the state, the foreign agents, unpatriotic masses or people with no allegiance to the state.

The psychological barrier between the state and the ethnic minority is expeditiously used by the state apparatus to create a

division in the society along ethnic lines. The division ultimately assumes a very complex shape not only in the form a superiority-inferiority relationship between the majority and the minority of a state but also in the state's overt efforts in keeping this minority group from the national main stream. In other words, the state in it's efforts towards nation-building keeps the minority at the lower rung of the society by remaining consciously or unconsciously indifferent to the fulfillment of their cherished goals be it political, economic, social or cultural. Thus, a permanent minority which feels threatened or it's status constantly diminished and subordinated begins to seethe and simmer until, in the words of the Universal Declaration of Human Rights, as a last resort people will rebel and conflict ensue.

It should be relevant to mention that the dilemma that the majority of the ethnic communities faced in the post-colonial societies has been caused by a host of factors, both colonial and post-colonial in nature. During the colonial period, the differences between the groups were exploited by the colonial powers and attention to the grievances of a particular minority group was totally non-existent. In the aftermath of the process of decolonisation, the situation of these groups worsened further as they were forced to live in an ethnic geography different from the past. The hasty and arbitrary drawing of the map of the colonised world at the time of the departure of the colonial powers did not take into account the ethno-linguistic, cultural and religious factors into due consideration. As a result, the political frontiers drawn by the departing colonial powers cut across natural boundaries of languages, tribal culture, religion, economies etc.

This phenomenon had an adverse psychological effect on the majority of the ethnic groups who now found their own peoples cut off due to the creation of new political boundaries. What is more important to take note of is the fact that the ideal of nation-state as the unifying force proved elusive in most of these societies. To recall the words of Ronald Cohen, "it has been one of

history's more serious mistakes" (Welsh, 1995: 44). In reality, the overriding sense of nationalism that was to develop out of the womb of nation-state did not take place for the reason that most of the countries were, and still are, decidedly multiethnic or multinational. For most of these groups, it was unimaginable to surrender their ethnic or group loyalties to the statewide loyalties or an overarching sense of national identity under the sponsorship of the majority group. As David Welsh remarks: "Parochial ethnic loyalties have proved stubbornly intractable and, although class has become a significant basis of stratification within developing states, nowhere has it eclipsed ethnicity as a basis for political mobilisation" (Welsh, 1995: 44).

Simultaneous with the concept of nation-state has been the concept of nation-building that too as a project has failed, except, of course, in those rare states in the developing world that have culturally homogeneous populations. In most of the newly born countries, the development has been uneven in nature as its benefits have not trickled down to the the general masses, the majority of which belong to the minority group. In effect, the state resources and wealth have been kept under the protection of the majority group and that its sharing with the minority has been a matter more of mercy than of a policy. It is, therefore, little surprising that the discriminatory economic systems along ethnic lines took little time to generate feelings of resentment and levels of frustration among the ethnic minorities leading ultimately to violence in the society. Also, the development programmes have made only very limited headway, due in large part to their overriding preoccupation with growth in macro-economic terms and their consequent neglect of the human factor. In the process of development, the state sponsored development programme failed to give due consideration to the traditional cultural values, ethos, etc., of the majority classes. The neglect of human factor in the development programme obviously refers to the violation of certain human rights to which the vast majority of governments,

economists and development planners seem to have remained benignly indifferent. In particular, there have been the governments which were obsessed with maintaining political unity in and the territorial integrity of their states, and they have engaged in vigorous efforts to create single national identities, to suppress other ethnic identities and to squash ethnic movements.

This is, however, not to deny that the governmental neglect or faulty policy initiatives do not affect the members of the majority. Realistically speaking, they are equally the victims of uneven development, and that the process of modernisation and the inflow of technologies equally affect certain spheres of their lives in a manner as in the case of the minority. However, in case of the minority, the loss of certain possessions has more negative impacts on their identity than on the identity of the majority in the similar event. In this respect, three important elements of ethnic composition draw one's attention, i.e., territory, language and religion. So strong are these factors to play upon the socio-psychological make up of the ethnic minorities that on the basis of these characteristics, they sometimes claim themselves to be the "candidates for nationhood". As Clifford Geertz and Harold Isacs opine, "ethnic groups are candidates for nationhood precisely because they possess the characteristics that nationalities have or claim to have" (Suhrke and Garner, 1977: 4). It should be borne in mind that although politico-economic factors like disparate allocation of power, resources and wealth mostly explain the grievances and discontentment of the ethnic minorities, these factors are the ones that are tangible in nature and can be addressed at one time or the other through few reformative measures by the state authority. On the contrary, the elements of high socio-philosophical and psychological values are something that are "given and not created" and are definitely the ones in which the ethnic minorities find the *raison d'être* of their existence. As a result, any damage caused to these valuable possessions, however, intangible they may be, cannot be repaired and the damage

strikes at the very susceptibilities and sentiments of the minority groups. The analysis, thus, would focus on the importance that these variables have in fostering an ethnic identity and in sustaining a solidarity within the community.

Territory

In any ethnic configuration, the relationship of people to their land is intimate. The deep attachment to the territory that these people inhabit is as old as the history of the community itself. Thus, whatever may be the size or the physical contour of their territory, the ethnic minorities consider it as their "homeland" personified in the image of either mother or father. In its air, soil and water, do find such communities their ultimate solace. As Anthony D. Smith remarks: "...what is vital for ethnicity is the sense of attachment to a particular land, the fervently held belief in a historical connection of this people with that land and the desire to return to its "sacred centres" - those hallowed places where ethnicity intersects with decisive turning points in the trajectory of the community..." (Smith, 1995: 30). Thus, while political boundaries may be continuously readjusted and redrawn, the ethnic boundaries are sacrosanct and immutable and the right of the minority group to live in this well defined boundary is an indispensable plank in the agenda of human rights. In this connection, an overriding sentiment that exists in the mind of each individual of ethnic group is: "I want to live in the boundary of my community not because it delivers certain goods but because it defines my identity".

The history abounds in a great number of cases where the minority groups have been driven away from their natural habitat. The American Indian, Maori, and native Hawaiians were dispossessed from their traditional lands. The Basque and the Philippine Moro conflicts, and part of the Puerto Rican conflicts, involve a striving for independence from an encroaching political system. The Malay-Thai conflict involve artificial boundaries that do not account for the geographic dispersion of the people, and

thus there is a two-way tension regarding identity with traditional homelands. Papua New Guinea is a new country encompassing hundreds of cultures and ethnic groups. The tensions there are, in part, the result of traditional homelands being subordinated to the national government. The list of violation of the territorial rights of the minority ethnic group can further be extended. However, the important point to take note of is that such violation is done by the national government for a number of reasons, the principal among which are to i. to confiscate the land and properties of the minority for the interests of the majority; ii. to bring the confiscated land within the broader scheme of national development; iii. to have direct administrative control over the ethnic affairs; iv. to have perennial security watch over the land of the minority in the event the boundary touches the national boundary of another state with the same ethnic composition and v. to weaken the sense of spatical belonging of the ethnic minority in order to bring them within the same territorial jurisdiction of the nation-state.

The land issue loaded with ethnic emotions and sentiments may, thus, become sometimes the singular cause of an ethnic rift between the minority group and the central authority of the state once such issue is not treated with prudence and caution by the latter. Notwithstanding the economic implications that such maltreatment may have for the ethnic minority, the implications are more socio-psychological in nature.

The Language

Like the issue of territory, the language factor is another sensitive issue for the majority of the ethnic minorities. As Dan Landis and Jerry Boucher remark: "Language, as a basic component of ethnicity, is a common theme in interethnic conflict" (Landis and Boucher, 1987: 22). In effect, language is another vehicle through which the ethnic minorities discover their indigenous traditions, history, customs, memories and symbols. It is the daily means of communication between the members of the community

and an important factor to unite the the community under a common banner.

It should be noted that on the basis of a linguistic unity, there develops a vernacular elite among the minority community. This elite class normally comprises of the ethnic intelligentsia and professionals whose task is to create a vernacular culture in their historic land. This has been well documented in the national movement of Quebec where the local intelligentsia has been active in disseminating the indigenous francophone culture, in opposition to the dominance of the anglophone majority in Canada. The same pattern is also found in Eastern Europe and Russia where the ethnic intellectuals have succeeded in mobilizing themselves through a vernacular culture thereby elevating a formerly "low" oral culture and language to the status of a "high" literary culture. Through the compilation of dictionaries, grammars, and philosophical treatises, ethnic elites have modernized and regenerated peasant languages and cultures. The Czech, Finnish and Ukrainian languages and cultures are examples of initially peripheral and neglected cultures that were to become fully fledged and internationally recognized (Smith, 1995: 35).

Like in the case of territory, the language of the minority has also become a subject of violation in several states. Major conflicts over language usage have occurred in Belgium, Canada, and India. In India, a multilingual country, language differences at one point of time threatened to disturb the peace and unity of the Republic. The southern and eastern Indians deeply resented the enshrinement of Hindi, the language spoken in the North, as the country's official language. The discontentment of the non-Hindi belt finally boiled down when the Indian government adopted a "three-language formula" which made Hindi the official language but allowed English and the various vernacular languages to be used within the states in government and in education. During much of the Franco period of Spain, government policy against use of any language other than Castillian caused considerable re-

sentment and turmoil in the Basque provinces (and other areas of Spain, such as Catalonia). In Malaysia, the government's concern for developing a "national culture", which included instituting Malay as the national language, has resulted in problems for the Chinese and contributed to increased tensions between Malays and Chinese. In contemporary world, the the secession of East Pakistan (now Bangladesh) from West Pakistan, the first of it's kind in post world war period, finds it's explanation in the discriminatory policy of the latter in imposing Urdu on the former as the state language of Pakistan. The discontentment caused by such imposition paved the way for a greater movement for independence, the intensity of which was further reinforced by other politico-social and economic factors in the process.

Thus, freedom of language, an important plank of human rights, deserves proper protection for all. In case, such a right is violated, it can become a singular cause of any ethnic uprising. As Dan Landis and Jerry Boucher remark: "The issue of language can be a multiple-bind problem: Conflict can arise when an ethnic group's right to speak it's own language is threatened. Conflict can also occur as a result of decreased communication between groups". To put the adverse effects of violating the right to language of the minority group more tangibly would be: i. the superiority-inferiority complex between the majority and the minority is futher heightened; ii. it alienates the minority from any process of integration in the society; iii. it denies the minority of economic services and opportunities, iv. it equally denies the minority any political participation and v. it acts as a constant factor to injure the image and psychology of the minority group as a distinct identity.

Religion and Culture

Religion and culture are the two valuable possessions that the human groups inherit from their past generations. Both these elements evolve out of a long evolutionary process with deep impact on the society. The culture of a particular group is largely de-

terminated by the religion that it confesses. Thus, if the former consists of components like dress, food, music, crafts, architecture, as well as laws, customs and institutions, then the latter has its influence on each of these. Thus, the religion has two important dimensions –spiritual and temporal– for any group, whether minority or majority. While the spiritual dimension dictates an individual of a group to follow certain dogmatic principles for knowing his "self", the temporal dimension leads him to lead an earthly life in accordance with the values and ethos dictated by his professed religion. Needless to say that it is in various cultural components (as mentioned above) that such values and ethos are reflected.

Most of the modern scholars are of the opinion that religion is no longer an criterion of ethnicity. However, very little evidences are there to substantiate this view. The Northern Ireland crisis is due mainly to religion on the basis of which the groups have developed nationalities. The Tamils – Sinhalese conflict has been heightened because the Tamils are Hindus and the Sinhalese are Buddhist. The Moro conflict involves Muslim versus Christian considerations. The Malaysian condition is heavily influenced by Muslim Malay attitudes towards the non Muslim Chinese. Many troubles in India and present day Middle East have a major religious component. The list can further be broadened to show how conflicts have taken place in many spots of the globe due to the reason that the religion of a particular minority group has been a subject of violation by the powerful majority group of a different religion. Such a violation causes resentment for reasons like (i) the group loses its distinct spiritual and temporal ideology, (ii) some of its fundamental cultural ethos and social mores get damaged, (iii) the group gets a psychological rebuff, (iv) the language, literature etc. largely influenced by religion are affected and (v) the group's societal cohesiveness guarded by few religions ideals gets disturbed. One scholar, thus observes- "One should not assume that ethnoreligious communities are on

the decline. Yet, for many communities today, religion, if it is at all relevant, is only one of several differentiating criteria”.

2. Chapter II. Case Studies

The empirical discussion in the chapter limited to few cases is not intended to prove any hypothesis. Given the fact that ethnic conflicts can flare up in any polity due to a number of reasons –politico-social-cultural and economic– it may be difficult to identify a particular reason in isolation from the others. However, as mentioned earlier, there are certain critical elements of human rights, violation of which can turn out to be the foremost and fundamental cause of an ethnic conflict in a society. The fundamental cause is reinforced by a host of other causes that may be termed as the intervening and peripheral factors to complicate further the conflict trajectory.

The case selection is made with due consideration to the **origin bias** of the researchers involved in the current study. The discussion will proceed within the following framework.

- Case I dealing with the violation of territory in case of Chittagong Hill Tracts (CHT), Bangladesh.
- Case II dealing with the violation of language right in case of the Sri Lankan ethnic crisis.
- Case III dealing with the religious and cultural deprivation of the Nepali speaking Bhutanese in Bhutan.
- Case IV dealing with the human rights issue with respect to the indigenous peoples in Venezuela.

1. Case I: Territory. The crux of the Ethnic Problem in CHT (Chittagong Hill Tracts, Bangladesh)

The ethnic turmoil that gripped Bangladesh from the time of its birth is localised in the Chittagong Hill Tracts (CHT), a piece of territory nearly one tenth in size of the total landmass of Bang-

ladesh, bordering on India and Myanmar. Land is considered to be the crucial factor to ignite an ethnic conflict between the Pahari people (the hilly people of CHT) and the majority Bengali speaking Bangladeshis.

The systematic acquisition of the tribal land by the successive governments in Bangladesh (dating back from the time of Pakkstan) in the name of development and modernisation was construed by the hill people not only as a measure to grab resources but as a step to encroach upon their their territory and means of livelihood. In effect, history of the acquisition of the tribal land goes back to 1957-62 when a gigantic hydroelectric project, the Karnafuli multi-purpose project, was constructed to accelerate economic development in the then East Pakistan. The project had serious effects on the economy and life patterns of the CHT people, depriving them of an area of 54,000 acres of cultivable land (40% of the total area of CHT). Although the Karnafuli project was a spur to the industrialization of Bangladesh, the tribal people hardly benefitted from it. Tribal employment in major industries in the area has been less than 1%. Since the construction of the Karnafuli dam, the government encouraged the tribal people to take up new occupations as fishing and horticulture at the cost of their traditional dependence on agriculture.

Other development projects undertaken by the Pakistani government and the successive Bangladeshi governments provided for improvement of the transport and communications system, expansion of educational, modern health care facilities etc. But these efforts, instead of appeasing the Tribal people added much to their wrath as it was viewed as a step to encourage Bengali settlement in the area, quick deployment of security forces and easy exploitation of the local resources. Also the issue of Bengali settlement in the tribal land was viewed by the CHT people as a demographic invasion in the area. It may be mentioned that in 1947 the tribals were more than 98% of the population in the CHT whereas the Bengali speaking people constituted only 2%.

The rise in the Bengali population in CHT from 11.6% in 1974 to 42% in 1981 is remarkable. In addition to changing the demographic composition of the CHT, the massive Bengali migration caused severe dislocation in the socio-economic environment and clashes over land became a regular phenomenon between the tribal people and the Bengali speaking people.

The discontentment and the grievances of the CHT people against the land grabbing policy of the Bangladesh government finally manifested itself in a conflict between the two poles. The constitutional fiasco paved no way for resolving the conflict and in the circumstances, the tribal people resorted to arms against the authority to stop the governmental encroachment upon their territory. And once the conflict was set in motion, the extent of violence marked the conflict in different forms and shapes.

2. Case II: The Issue of Language and the Sri Lankan Conflict: Violation of A Basic Human Right

Sri Lanka is a comparatively small island, small nation with a population of just over an eighteen million. Its society multi-ethnic, multi-lingual and multi religious is mainly composed of the Sinhalese constituting 74% of the Island's population of which 67% follow the Buddhist religion. The rest of the group follows the religion of Christianity in various forms. Whereas, the Tamils constitute 18.1% of the population among which the Sri Lankan Tamils constitute 12.6% and the Indian Tamils 5.6% in the composition. In addition there are Muslims that constitute a significant portion amounting to 7.1% of the population –Department of Census and Statistics (Central Bank of Colombo), 1998.

The country since independence in 1948 emerged as a nation state with a highly centralized unitary system of government imposed by the British colonial rulers on an ethnically segmented social polity. The constitution of the independent Island-country was designed by the British colonial masters without paying adequate attention to the specific characteristics of the Sri Lankan

society. The ethnically segmented social formation was not taken in to their deep considerations and instead, it was assumed that the emerging ethnic issues at that time could be accommodated through political arrangements designed in accordance with the British system of parliamentary democracy (De Silva, 1972: 196-226).

The Bandaranaiyake administration enacted the official Language Act of 1956 making Sinhalese the only official language replacing English. There was widespread support for this move from the Sinhalese. The change had both substantive and symbolic significance. At the symbolic level it signalled the triumph of Sinhalese nationalism. At the substantive level, from a national perspective, it had both advantages as well as disadvantages. Given the fact that proficiency in English was limited to a small urban elite, no more than 10% to 15% of the population, conducting government business in a language that was understood by the common people was a progressive step. However, from an ethnic perspective, the policy had its drawbacks. The Tamils felt alienated. Language is a key element of ethnic identity of both Sinhalese and Tamils. However, language policy also had other practical implications in areas such as jobs and education. When government business began to be conducted in Sinhalese, inevitably, more jobs in government became available to the Sinhalese. Provision was made for Tamils to join government service without proficiency in Sinhalese. However, they were required to pass a Sinhalese language examination within a prescribed time period. Otherwise they were denied promotion, salary, increments and were to face eventually the threat of dismissal from service.

The impact of this policy was seen, for example, in the recruitment to the general clerical service of the central government in 1949, when English was the official language 54% of the recruits were Sinhalese, and 41% Tamils. In 1955, the year before Sinhalese was made the official language, the share of the two communities were 66%, and 39% respectively. In 1963, the fig-

ures were 92% and 7% respectively. There was a significant increase in the Sinhalese share and a parallel decrease in the Tamils share even before 1956. After 1956 there had been a tremendous drop in Tamil recruitment caused by the Language Policy (Manor, 1984: 30).

Language or what has been called "linguistic nationalism" was at the heart of Sri Lanka's ethnic problem (De Silva, 1972: 196-226). In the election campaign of 1956, Bandaranaike rallied revivalist support around his by advocating the policy "Sinhala only" according to which Sinhala would become the exclusive official language of Sri Lanka. For the ethnic nationalist, that point was crucial. Sinhala culture and religion were deeply interconnected with the language, and therefore, the Sinhala way of life could achieve its rightful preeminence only if the Sinhala language predominated in the society.

For the Tamils, this policy was profoundly offensive. It revoked a more flexible and pluralistic linguistic arrangement worked out in the early 1940s before independence, and it appeared to devalue and demean the Tamils by subordinating their language. Still more making Sinhala the official language was thought to legitimize a Sinhala Buddhist ideology which implied that loyalty to the country is identified with loyalty to a particular race and religion—that of the majority" (Siri: 218-219). Also by implication, the policy was interpreted as authorizing certain discriminatory and demeaning attitudes toward Tamils that lie concealed in the very structures of the Sinhala language (Siri: 216).

In his conciliatory post election mood, Bandaranaike strove to soften the impact of Sinhala only, even though he had raised chauvinist expectations on the subject during the campaign, he attempted to include in relevant bills several mollifying provisions guaranteeing what he called "reasonable use of Tamil". Eventually however, he decided to withdraw the provisions under

revivalist pressure, an act of acquiescence that worsened ethnic relations and provoked. "The worst episode of communal violence in modern Sri Lanka's history to that time" (Tambiah: 35-64).

It is now relevant to consider the crucial role of the language issue in Sri Lanka's ethnic conflict. Although the Sinhala conception of nationalism critically relates Buddhism in the polity, this formula has been taken by the Tamils as evidence of an intolerant militancy of Sinhalese politico-linguistic and religious claims. Language has, thus, been a more important issue in the Sinhalese-Tamil conflict with a religious underpinning.

Language has been the main bone of contention in Sri Lanka since independence because of its relevance for education as a medium of instruction and thereafter for employment. Given the fact that white collar employment control by the government and other services like medical, legal, engineering etc. have high value in the society, the new language policy affected the Tamils' representation of the middle class elites in such areas. The decline is glaring when compared to the Tamils' representation in such jobs in the pre-independence period and in the immediate aftermath. However, this group despite being deprived, sought a kind of accommodation with the authority. Hence it is no exaggeration to say that in the first two decades since independence, the most important factor contributing to ethnic tension and violence in Sri Lanka had been the bread-and-butter issue of "lower middle class" other than of the upper elite class. This explains why the educated "middle classes" among the Sinhalese and Tamils have not actually participated in the riotous violence and thuggery. Rather, it has been the play of the urban poor, the have-nots, and the displaced who in the latter years become the important factors in ethnic conflict.

Upon implementation of the new language policy, Sinhalese gained the status of official language for purposes of central administration, while education at the primary and secondary levels

was provided in two streams –Tamils and Sinhalese. The latter step was little relevance to the Tamils for the reason that the end of the day, they had learnt Sinhalese for entering the government and other jobs. Even English which was used as a second language was little help in so far as employment is concerned. In the long run, the implementation of the new language policy has worked to the detriment of Tamil interests, and Tamil fears regarding discrimination took little time to get materialized. For it has become the accepted thesis among numerous Sinhalese, including many segments of the educated middle classes that the principle of majority politics entitles their government to insist on “affirmative action” on behalf of that majority. This affirmative action is defined as securing employment for the Sinhalese in proportion to their demographic strength. The same majority claim has stimulated populist politicians and monks to press for the granting of Sinhala “nationalism” with its potent mix of race, religion and language, its “rightful place” in the islands political culture.

Buddhism is virtually today the state religion of the Sri Lanka and most of the Sinhala majority, and the most important Sinhalese –dominated political parties– the UNP, SLFP and JVP by and large take for granted that discriminatory legislation and the imposition of quotas in favor of the majority is justified. However the quota system on the basis of Tamils demographic representation backfired as it decrease Tamils representation in all the institutions, in particular, in the University. Thus, if language issue had been the crucial element in fomenting Tamil’s resentment and frustration against the Sri Lankan government from the beginning, then other issues have come to join it to further aggravate such Tamils feeling vis-a-vis the central authority.

In the end it can be said that if the language factor in Sri Lankan ethnic conflict is linked with human Rights consideration, then the flus of events around this issue would reveal that such a fundamental right has not only been violated but then

very little efforts have been expended to redress the language oriented grievances of the Tamils right up from the beginning. As a result, the ethnic conflict in Sri Lanka has transformed itself not only in it's intensity but also in the objectives of the Tamils from linguistic via autonomy to the final claim for a separate state ub the Tamils dominated area in the north.

3. Case III: Threat to Religion and Culture: A Potential cause of Ethnic Conflict. The Case of Nepali speaking Bhutanes Refugee

The Kingdom of Bhutan now finds itself in the midst of a serious refugee problem. The refugee population in the Kingdom is of Nepalese origin that has been living here since long. It may be mentioned that Bhutan and Nepal, although are the neighbours, do not share any common border between them. Lying at the foot hill of the Himalaya, the two countries are separated from each other by India.

The population of Bhutan consists mainly of three ethnic groups –Sharchops, the Ngalops and the Nepalese language speaking Bhutanese or Lhotshampas. The Sharchops were the earliest inhabitants and they live mostly in eastern Bhutan (Parmand, 1992). Their origin is from north Burma and northeast India. The Ngalops were the migrants from Tibet and they brought Buddhism with them. They live in the western and central Bhutan. The Nepalese language speaking people came to Bhutan in the late 19th century and early 20th century and they are the followers of Hindu religion. They live mostly in the southern part of Bhutan. The official language of Bhutan is Dzongkha but English is also quite common. According to official data population of Bhutan is approximately 1.5 million.

History shows that in the southern part of Bhutan, Nepalese language speaking Bhutanese or Lhotshampas (people of southern Bhutan) were living with the locals peacefully before 1958. Since 1958, the government of Bhutan started the policy of ethnic

cleansing. The first step was taken in 1958 by making it the cut off year for granting citizenship to the Lhoshampas or Southern Bhutanese. Activating it in the middle of the 1980s, Bhutan started harassing the Nepalese language speaking Bhutanese by imposing dress and language under the "Driglam Namzha" or cultural code of conduct.

The imposing of Driglam Namzha (cultural code of conduct) in the 1980s, forced all the Nepalese language speaking Bhutanese to follow the Drukpa culture, language and dress (Raj Baral, 1999). It compelled the Nepalese language speaking Bhutanese to leave their country under the threat of force and all possible coercive means. This plight of Nepalese language speaking Bhutan was also inspired by the emergence of democracy in Nepal beginning from the 1990s. It is estimated that at present near about one hundred thousand Nepalese language speaking Bhutanese are living in the eastern part of Nepal in the seven different refugee camps and around 25 thousand moved in the adjoining provinces of India notwithstanding the fact that India did not recognize them as refugees.

The imposition of Bhutanese culture on the Nepalese speaking Bhutanese population is viewed by the concerned quarters as a violation of human rights, in other words, the basic right to culture and religion. In term of dress and language, children were discriminated against even in the sphere of education. They are not registered in the school until they do not have the dress "gho and kira" (gho for male and kira for female) and they do not speak the "Dzongkha" language. The people of southern part of Bhutan speak Nepalese language and follow the Hindu religion. The Nepalese language speaking Bhutanese are marginalized from the government services, higher education and other opportunities because of the dress and language.

From a longer term perspective, any further lingering of the refugee problem has the potentialities for causing an open ethnic

conflict between the Bhutanese and the Nepalese speaking Bhutanese. In such an eventuality, the dimension of the conflict may attain a serious dimension as the exodus of Nepalese causes concern not only in Nepal but also in the remaining neighbourhood.

4. Case IV: Indigenous Peoples and Violation of Human Rights: Potential Cause of Ethnic Conflicts in Latin America. The Case of Venezuela

To understand the indigenous situation in Venezuela one has to analyze the political context within which some ethnic conflicts have occurred during the last twenty years in Latin America. Many of these emblematic ethnic conflicts have been related to struggle between the indigenous peoples and the political system of the states, intensifying ethnic conflicts in this region. In fact, "internal division caused by ethnic tension is the major threat to contemporary states". Each event, of course, has specific political, cultural, social, and economic circumstances, and thus each conflict termination is also different.

It would not be an exaggeration to say that the fillip to ethnic conflicts in Latin American there had been provided by the Liberation Theology in the formation of guerilla groups, specifically in Mexico, Guatemala, Ecuador, Colombia, and Peru, which have taken up arms to demand different rights for indigenous communities. All of them have brought different kinds of interventionism and several peace agreements as well. On the other hand, Latin American indigenous movement has struggled to cope with more political participation in government decision-making and Venezuelan indigenous leaders have followed this way.

Although Venezuela is a peaceful country that never have had problems with their ethnic groups, there is the possibility that the demand for the fulfillment of the constitutional rights by one or more of the 28 Indian communities in its territory could cause new conflicts between the Venezuelan government and the former in near future. For this reason, it is necessary to put into

practice the postulates that the international instruments on human rights have established and the theory of Conflict Resolution as platform in order to prevent future conflicts with these ethnic groups.

Venezuela is a multiethnic and multi-lingual country⁽²⁾. There are about 316,000 indigenous peoples in 28 ethnic groups in the Venezuelan territory, according to the last 1992 census, although they numerically represent minority groups (1.8%) in comparison with the rest of the population (approximately 22,803,409 inhabitants). This social component constitutes one essential difference with the rest of the Latin American countries⁽³⁾. Commonly, the members of each indigenous group speak their own language or dialect and have a strong sense of their distinctiveness, in terms of customs and traditions, from other groups. For this reason, they represent an *ethnic identity* because each indigenous group "... shares a common history and destiny. Religion, culture, language and physical appearance can serve as markers separating the group from other groups" (Jarstad, 1999: 2).

Many indigenous peoples are isolated from modern civilization and lack access to basic health and educational facilities. Also, high rates of disease plague their communities⁽⁴⁾. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a principal local human rights organization, indigenous communities are the most marginalized, abused and vulnerable populations in Venezuela because their lands, cultures, traditions, and natural resources are being systematically annihilated (Critique, 1997: 281)⁽⁵⁾. Finally, one can say that the Venezuela's government has not adequately safeguarded the rights of indigenous peoples until now. At this date in Venezuela there is no organ of government with general responsibility on Indian affairs, due to lack of specific organic legislation about the legal condition and special problems of the indigenous peoples.

In the last 25 years, the Venezuela's government has approved several international instruments on human rights that recognize different demands for ethnic groups, including indigenous peoples. These treaties have opened a great space for the treatment of indigenous peoples within national juridical order modelled after the American constitutional process.

The international protection systems on human rights of which Venezuela is member have fulfilled an extraordinary role on indigenous issues. The first international organization is the United Nations, which has the Sub-Commission on Prevention of Discrimination and Protection of Minorities. This Sub-Commission created the Working Group on Indigenous Populations (WGIP) in 1982, which authorized an important report intitled "The Study of the Problem of Discrimination against Indigenous Population" recognized the right to self-determination and territorial rights for indigenous peoples. Furthermore, WGIP has been elaborated the Draft Universal Declaration on the Rights of Indigenous Peoples, (Perkins, 1995)⁽⁶⁾ although this project has encountered a lot of opposition on the part of some governments, especially in what concerns the principle of self-determination or autonomy of indigenous peoples⁽⁷⁾. In 1993, the United Nations World Conference on Human Rights in Vienna dedicated five paragraphs to indigenous peoples, although did not include any reference to the self-determination issue (Lopez Bermudez, 1997).

The second international organization is the Organization of American States (OAS). In February 1997, the OAS Inter-American Commission on Human Rights approved the American Declaration on the Rights of Indigenous Peoples that specifically recognizes indigenous law as part of the state's legal system and, also, affirms their right and capacity to decide on the values, goals, and strategies that will govern and steer their development (Kreimer, 1998: 2). At last, in 1983 Venezuela's government incorporated the International Labor Organization (ILO) Convention 107 into national law (Congressional Decree No. 3,235, on 3

August 1983), which sets forth indigenous economic, political, land, social, and cultural rights. The Convention mandates indigenous peoples can freely participate in decisions which affected them, and also affirms the rights for this population to decide their own priorities for the process of development as affects. Beside, the Convention upholds the right of indigenous peoples to retain their own customs and institutions, including customary norms to resolve their conflicts. This document has never been officially passed to the International Labour Office; its means that Venezuela has not ratified the Convention. (Survival International and World Rainforest Movement. *Venezuela: Violations of Indigenous Rights*. 1995: p. 10). However, since Venezuela gave national effect to ILO Convention 107, no legal changes have been made to secure indigenous people's rights.

During the last two years, Venezuela has experimented a deep process of political, institutional, and cultural transformation, which has implied the elaboration of a new Constitutional order. On April 25 1999, the first Referendum in Venezuela's history was held to seek for the Constitutional Assembly, where fundamental proposals were, among others, to grant constitutional status to human rights issues, to guarantee the right to justice for all citizens, and incorporating rights for indigenous peoples. In July 25 1999, three Indian leaders were elected as members for the National Constituent Assembly (ANC), who were chosen by traditional indigenous procedures⁽⁸⁾. Unfortunately, these indigenous leaders belong to the government's political party. The ANC drafted the new constitution, which was approved in December 15 by popular referendum. Accordingly, the 1999 Bolivarian Constitution of Venezuela (Official Gazette No. 36.860, December 30, 1999) has become in one of the most constitutional protecting indigenous rights in America. The Preamble to the new Constitution officially acclaimed the multiethnic society and cultural diversity of the Venezuela State, recognizing there are many original cultures in Venezuela with their distinct ways of viewing the

world and ways of life. Moreover, it established a special Indigenous People's Rights Chapter that recognize their cultures, traditions, indigenous territories (habitats), the control of natural resources, and their languages as official in the regions where indigenous peoples are located, among other rights (articles 119 to 126). The wide chapter theoretically guarantees collective rights and the vital spaces of the indigenous peoples, including all principles established in the international standards mentioned before.

Moreover, the Bolivarian Constitution established that treaties, pacts or conventions on human rights have a constitutional hierarchy and are over internal legal order, with immediate application by different courts of the Republic and Public organisms as well (article 23). Furthermore, the administration of justice has been created as an independent system that promotes the application of alternative mechanisms on conflict resolutions, for instance, justice of the peace (article 258 - The Organic Law Justice of the Peace), arbitration, mediation, conciliation, and indigenous customary law⁽⁹⁾, in order to recognize the *legal pluralism* and reduce the high costs of using the national judicial system. Those alternative mechanisms were established in the new Organic Code of Criminal Procedures (COPP), which was enacted in July 1, 1998. The Article 260 of the Constitution says:

The legal authorities of the indigenous peoples could apply instances of justice in their habitats based on the ancestral traditions which only affect the member of their communities, according to the own norms and procedures, as long as they do not go against this Constitution and the public law and order. This law determines the form of coordination of this special jurisdiction with the national judicial system.

This means, among other things, indigenous peoples can use the customary law as tool to address their conflicts. Also, this special jurisdiction will be used in the case of conflicts that do not affect the welfare of the national community. Indigenous communi-

ties, of course, have incorporated some elements of Venezuelan law into customary law and have applied it in their own administration of justice. If we accept that indian lands (habitats) are defined as a territory, that communities are corporate entities with a public nature, and that the usages, practices, customary norms and traditions have the force of a source of law, there is no reason for not accepting the term "jurisdiction" and the autonomy of indigenous territories.

The most important question is to know whether the Venezuela's Constitution recognizes the right of the self-determination of indigenous peoples or not. Indigenous peoples around the world, of course, consider the self-determination or autonomy as the fundamental right to achieve every other rights, although many others reject it as secessionist position (Burger: 93). Besides, in strict juridical sense, self-determination means that all peoples have the right to determine their political status and their economic, social and cultural development⁽¹⁰⁾. However, in the case of Venezuela there is not an *absolute self-determination* for indigenous peoples because exist a legal limitation in the second paragraph of the article 126 of the new Constitution, when the Legislator established the term "peoples" in that Constitution has no implications as regards the right to self-determination as understood in international law⁽¹¹⁾. The reason is this right could imply sovereignty as nation-states. Furthermore, the Legislator also established Venezuelan indigenous peoples are part of the Venezuelan Nation, which is unique, sovereign and indivisible.

On the other hand, several indigenous communities are formed by few population, for instance in some cases they only have about 350 members. Consequently, these communities could apply their customary law within their community but they need in many way the support of the national state to subsist (health, education, etc.). Therefore, it is more able to speak about of *rela-*

tive autonomy, because the power to apply norms over their territories.

3. Chapter III. Mechanisms of Conflict Resolution in Case of Ethnic Conflicts

The case studies undertaken for review reveal how human rights violation, in particular, the basic rights like right to territory, language, religion and culture, have led to conflicts or remain as the potential cause of conflicts in some of the areas. In this chapter, we will study the mechanisms for resolving the conflicts as identified in each of the cases.

3.1. The CHT Crisis

The drawn ethnic conflict in Bangladesh between the state authority and the Tribal ethnic minority came to a halt, thanks to the peace accord signed between the two the two parties in December 1997. The accord came as conscious or subconscious recognition about the existence of heterogeneity within the state. This definitely marks a departure from the long drawn process of psychologically and culturally perceiving Bangladesh as a heterogeneous nation-state of the Bengalis. The accord envisaged a sort of autonomy by creating a CHT Regional Council which is to represent the tribal people politically, economically and socially. The council invested power in the tribal leadership to manage the affairs of the region. However, negotiations are still in the process over the question of sharing certain resources in the area between the tribal leadership and the Bangladesh authority. Despite few loopholes and flaws, the CHT accord has been widely appreciated throughout the world as a model of non-violent resolution to ethnic conflict.

3.2. Sri Lankan Ethnic Conflict

A major viable solution, as matters stand now, is a genuine devolution of powers as envisaged in a provincial or regional councils plan. The provinces or regions should be able to enjoy

autonomy in matters of local government, local revenue collection, primary and secondary education so on. In the areas where the Tamils are in a majority, they should be able to feel that they control some significant part of their destiny. And given the present poisoned ethnic relations, it makes sense to grant Tamil provincial or regional, "autonomy" which would imply the larger grouping of Tamil districts for the purpose of following certain larger collective goals. This would also give them a sense of greater security with in the larger polity of Sri Lanka. The Tamils should be assured a major role in the constitution and use of security forces and policy in the areas in which they predominate. The government should guarantee a system of fair allocation of central government funds to the local units. It should devise and implement a fair plan that will integrate higher education (University, training colleges, and professional schools) at the national level. There should be open recruitment on the basis of merit alone to those national institution of higher education that teach medicine, engineering and so on, and are the avenues to professional employment. These places of higher learning, like the professions they lead to, can not be subject to quotas on the basis of race, religion, or any other attribute irrelevant to applicants of knowledge. Finally there should be a determined effort to establish national "nonpolitical" organizations. Such as a university grants committee, an advisory economic council and so on, which will deal with the entire country in an even-handed way, and yet seek to give additional help and provide better facilities to those segments of the population that are most disadvantaged.

3.3. The Bhutanese Refugee Problem

The problem of refugees is another burden of Nepal to its growing population. Since 1990 ten round of bilateral dialogues (prime ministerial, ministerial and secretarial level) were held between Nepal and Bhutan, however all ended up in failures without bringing positive expectation of solving the refugee problem. Although bilateral dialogues were carried on between Nepal

and Bhutan, it was of no effect. The fourth bilateral meeting of the home ministers of the two countries reached an understanding on categorization of the refugees living in the different camps of Nepal. The four categories were made: (a) forcefully evicted Bhutanese (b) Bhutanese who left voluntarily (c) Bhutanese with criminal records and (d) non-Bhutanese. These categories have weakened Nepal's negotiation position.

Nepal has adopted three options for solving the refugee's problem- bilateral negotiation, use of Indian involvement and internationalization of the refugee problem. However, the former two options have failed without any positive development. India only suggested that both Bhutan and Nepal should solve it in a spirit of good neighborly relations. The third option –internationalization of the refugee issue is not appropriate in the present context as the issue is already internationalized in the media and in the office circles. Bhutan did not accept the Nepalese language speaking Bhutanese as citizen of Bhutan consequently making them "stateless" people. The Nepalese language speaking Bhutanese neither Bhutanese, nor Nepalese nor Indian. Who are they and which countries they belong to? This identity crisis is a daunting question for these displaced peoples. At present, the problem is no where near a solution. But then the Bhutanese refugees are suffering painful situation in the squalid refugee camps. They are far from the necessary standard of livings.

3.4. Indigenous Peoples in Venezuela

Until now, the political and juridical discussion and application about the right of self-determination for indigenous peoples is not very clear. We believe that the constitutional recognition of the *relative autonomy* of Venezuelan indigenous peoples can permit their advances through process of accords with the state for the treatment of specific problems or the development of joint activities for the resolution of problems affecting a particular com-

munity⁽¹²⁾. It is necessary that both indigenous peoples and Venezuelan government are willing during the process.

In order to secure these peace agreements, it is very recommendable the participation of members of the United Nations Working Group on Indigenous Populations of the Subcommission, representatives of non-governmental indigenous organization, during the discussion and approbation of them. These peace accords would be to reaffirm the communities' legal and political autonomy of the indigenous peoples within Venezuelan State.

Conclusion

A critical inquiry into some of the case studies taken for study reveal that the at the root of all such ethnic conflicts has been the violation of certain rights of the minorities –territorial, cultural and perceptual. In two cases, Bangladesh and Sri Lanka, the problems included the destruction of the natural habitat of an ethnic minority in the former and the legal and political measures for imposing a language on the minority in case of the latter. Interestingly, while such violation erupted the conflicts in the initial stage, at later phase of the conflict, other factors, economic, political and religion, came to reinforce the grievances caused earlier by the violation of a single major right. This demonstrates how a conflict transforms itself from one phase to another. Since, violence is the tangible manifestation of a conflict, it too changes its course all along the conflict trajectory. What is still more important to take note of is the fact that the objectives for launching the conflict also change with time. In case of Bangladesh, the initial aim was to put a stop on the government's land acquisition policy. Later on, it turned out to be a movement for the autonomy. Although the peace accord has granted a limited autonomy, there is the speculation that failure to meet many of the demands of the tribal people may again raise the demand not for autonomy but for self-determination. In case of the Sri Lankan crisis, it is the state formation and not mere autonomy which is the goal of the

Tamil tigers at present, whereas, in the initial stage, autonomy was the sole demand of the Tamils.

This shows that internal conflicts are difficult to manage in so far as the solution of the incompatible goals is concerned. While in case of Bangladesh, the conflict has been managed, in other words, its worst excesses have been avoided and mitigated, conflict resolution measures still hang in the air as the parties still have certain differing standings on the goals and objectives. In case of Sri Lanka, the conflict seems to have followed the road to intractability where no established measures of conflict resolution are applicable now. Despite, this the concerned author has put forward certain ideas to further enlighten the concept of autonomy for the Tamils.

In case of Nepali speaking Bhutanes people who are the victims of religious and cultural discrimination in the Kingdom of Bhutan, traditional preventive diplomacy seems to be visible in sight for mitigating the problem. It is important to note here that the parties are in constant communication with each other through dialogue, parleys etc. However, it is prognosticate the nature and intensity of violence in any futur conflict between the Nepalese speaking Bhutanese and the majority Bhutanese. In case of the indigenous peoples in Venezuela, the measures are as well preventive in nature. And such measures have been envisaged as the government feels the likelihood of an ethnic conflict between the majority and the minority indigenous peoples.

But what happens to a conflict when it is related to people of the same ethnic group over issues like religion, ethnicity and localism as observd in the case of Tajikistan (see appendix I). Considering the intensity of violence in such conflict that is aimed at capturing the state power, such type of conflict becomes protracted social conflicts. As Azar and Nordliner argues such type of conflicts are difficult to tackle and can only be regulated in the long run rather than in the short run.

In the concluding words, it can be said that although ethnic conflicts take in a variety of forms and shapes, the underlying causes of such conflicts would always be found in the violation of certain rights and privileges, the protection of which is the responsibility of the state authority. If such rights and privileges are duly taken care of, then probably this cautious approach would act in itself as a preventive measure to arrest many conflicts in the future. In this connection, many are of the opinion that democracy can be an effective mechanism for preventing conflicts. The question is: if democracy is a rule by the majority, then minority rights may present themselves as problems not susceptible to solution by the simple methods of majority rule.

Notes

- (1) Almost every country faces ethnic problems of one kind or another. Estimates of the number of ethnic groups in the world vary widely, depending on whether the researchers making the estimates are interested in simple ethnic-linguistic distinctiveness or political salience. Those who are interested in the former estimate that there are between 3,000 and 9,000 ethnic communities in the world. Those who are interested in the latter find that at least 200 groups merit attention. At least 160 –roughly ninety percent– of the more than 180 states in the international system are ethnically heterogeneous in the sense that minorities constitute more than five percent of the total population (Cited in Michael E. Brown and Sumit Ganguly (ed.), *Government Politics and Ethnic Relations in Asia and the Pacific*, The Mit Press, Cambridge, Massachusetts, London, England, 1994, p. 3).
- (2) Venezuela is located in the north of South America, bordering the Caribbean Sea and the North Atlantic Ocean, between Colombia and Guyana. Its ethnic composition is: mestizo 67% white 21%; black 10%, and Amerindian 2% (<http://www.odci.gov/cia/publications/factbook/ve.html>).
- (3) In Bolivia, for example, indigenous represent 56.8% of population; 43.8% in Guatemala; 40.8% in Peru (See World Bank. *Indigenous*

- People and Poverty in Latin America: An Empirical Analysis*. Washington, D.C. 1994).
- (4) http://www.state.gov/www/global/human_rights/1999_report/venezuel.html
 - (5) Critique. "Review of the U.S. Department of State's Country Reports on Human Rights Practices". Lawyer Committee for Human Rights, 1997: p. 281. A similar conclusion reported Survival, an international organization for tribal peoples when confirmed: *The rapidly deteriorating situation of the indigenous peoples in Venezuela is among the most serious in Latin America... the situation is deplorable... Their rights to life, land, property, health and education are being denied, setting their very future in jeopardy*". Survival International and World Rainforest Movement. England, 1995, p. 37.
 - (6) See Steven C. Perkins. *Indigenous Peoples and International Organization: Issues and Responses*. International Journal Legal Information. 1995. Also, see: James Anaya. *Indigenous Rights Norms in Contemporary International Law*. Arizona Journal of International and Comparative Law. Vol. 8, No. 2. 1991.
 - (7) Special Rapporteur Presents Draft Declaration on Rights of Indigenous Peoples. See: <http://nativenet.uthscsa.edu/archive/nl/9410/0006.html>
 - (8) See: U.S. Department of State. Human Rights Reports for 1999.
 - (9) The term "Customary law" or unwritten law, is an integral part of the social, political, an economic life of the indigenous societies that usually imply conflict resolution mechanisms (See: Rodolfo Stavenhagen. *Derecho Consuetudinario Indígena en América Latina*. Instituto Indigenista Inteamericano/Instituto Interamericano de Derechos Humanos, Costa Rica, 1990; Rodolfo Stavenhagen and Diego Iturralde. *Entre la Ley y la Costumbre: El Derecho Consuetudinario*. Instituto Indigenista Inteamericano/Instituto Interamericano de Derechos Humanos, Costa Rica, 1990; Joanna Drzewieniecki. *Indigenous People, Law, and Politics in Peru*. State University of New York at Buffalo. LASA, 1995).
 - (10) See: the 1966 Covenants on Economic, Social and Cultural Rights, and Civil and Political Rights, United Nations.
 - (11) The same limitation was established in ILO 107 and 169 Conventions.

- (12) In Colombia, for example, there is an Interinstitutional Committee for the Development of the Indigenous Communities of the Cauca and the Project for the Promotion of Farm Production and Cooperative Development.

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