Minority Rights in Post-Conflict Peacebuilding: An Analysis of Legislative Perspectives and Contemporary Challenges

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Abstract

Post-conflict peacebuilding is a complex and multifaceted process that seeks to restore peace and stability in societies that have been ravaged by violent conflicts. Minority rights are an integral part of this process, as they play a crucial role in promoting social cohesion, reconciliation, and sustainable development in the post-conflict context. Unfortunately, minority rights are often marginalized and underrepresented in post-conflict peacebuilding efforts, leaving minority groups at risk of continued discrimination and exclusion. The neglect of these rights hampers the prospects for lasting peace and hinders the contributions of minority populations to post-conflict societies.

This paper examines or analyses the significance of minority rights in post-conflict societies. It provides an in-depth examination of issues such as (a) the impact of religion on the formation of majority and minority dynamics in diverse societies, (b) the transformative potential of information technology and its role in fostering inclusive communication, (c) the interplay between primordialism and constructivism in understanding ethnic identities and their implications for the practice of consociational democracy; (d) the inclusivity of peacebuilding approaches and their integration of reconciliation across various facets of post-conflict development.

To achieve this, the paper employs a multidisciplinary and non-empirical approach to desk research, including an extensive literature review, qualitative analysis of case studies from conflict-ridden regions, and a critical examination of consociational democracies. This methodological diversity enables a comprehensive exploration of minority rights' complex dynamics in peacebuilding contexts.

Finally, the paper argues that achieving sustainable peace requires acknowledging the pivotal role of minority rights and fostering inclusive approaches that empower diverse

community members to contribute actively. Despite its limitations, the consociational model offers an adaptable framework for balancing the preservation and reconstruction of ethnic identities in post-conflict settings. Moreover, involving historically marginalized groups, such as women and youth, is essential for building more equitable and peaceful societies.

Keywords: Conflict , Minority Rights, Human Rights, Peace-building, Pandemic Impact, Post-conflicts, consociationalism, primordialism, constructivism

Introduction

Every country's population comprises people of different religions, languages, and cultures. However, the major distinction among the people who belong to the classes is *commonly* made based on religion. As much as the people of any religion exist numerically more than the rest of the population of the State, it falls within the ambit of the majority. Conversely, the remaining people of different religions, cultures, or languages become minorities. While Tocqueville (1994) said in his book "Democracy in America" a hundred years ago that pluralistic communication was necessary for a developed democracy, information and communication technologies today provide this opportunity. It is possible to increase the degree and quality of public participation with information technologies. Direct participation will become more possible thanks to the Internet and communication technologies (Korac-Kakabadse and Korac-Kakabadse, 1999: 215). One of the critical contributions of civil society elements is that they can be carriers at the point of policy learning. It has been observed that non-governmental organizations can be effective, especially against sexist discrimination policies against women. (Ruzza, 2011: 51).

The rights to existence, identity, not being discriminated against, and access to political and economic platforms were not meant to separate people, nor were they meant to support secessionist movements, but rather to protect groups lacking power. Individuals within minority groups such as women, children, the elderly, the sick, and so forth who cannot fend for themselves are the ones who need protection by such rights during times of crisis.

Minority rights, a term used in United Nations Human Rights circles referring to national or ethnic, religious, and linguistic minorities (UN-HR, 2010), occupy a pivotal position in the discourse on violent conflicts worldwide (Baldwin, Chapman, & Gray, 2007). Possibly because apart from bearing, in most cases, minority groups bear the major brunt of conflict around the world (UN-HR, 2010, p. 1), their rights are often not taken care of and thereby "marginalised in peace processes and conflict prevention programmes" (Baldwin, Chapman, & Gray, 2007). Given their non-inclusion in most of the discourses, their right to existence, the right to identity, the right not to be discriminated against, and the right to political and economic participation might end up not being met if such groups are not included in the peace-building process. Looking at the crisis in Chechnya, Darfur, Kashmir, Kosovo, Sri Lanka, Nigeria, Afghanistan, Syria, Iran, Uganda, and DRC, to mention but a few, the non-inclusion of minority groups in peace-building efforts has given them almost no space in a post-conflict environment.

Although many countries around the world have included minority rights in their constitutions and implemented them through electoral, justice, and education systems

before, during, and after conflict (Chapman & Gray, 2007), realizing an inclusive representation at peace-building fora is still a thing of the future to many communities.

Minority Rights

However, in the modern period, particularly between 1960 and 1970, the *minority* term has been *commonly* stated to the native person, with ethnic and religious perspectives in the mixed populated countries. However, so far, Articles 1 & 2 of the UN Declaration on minorities classify the minorities based on religion, ethnicity, culture, language, and nationality, and both provisions express that the States shall safeguard the existence of minorities in the preview of unanimously adopted declaration on the rights of minorities, i.e. in the year 1992.

It has been *emphasised* time and again that there is no *disagreement* on the existence of minorities in every State; a specific classification ought to be included or adopted with the object of protecting minorities based on religion, language, and ethnicity so that they may not feel hostility at the hands of the majority. Henceforth, in pursuance of the UN Declaration on Human Rights, 1948, and the minorities 1997, almost every country has primarily guaranteed the fundamental rights as inalienable to their citizen, either belonging to the majority or minority, secondly incorporated provisions protecting the rights of other classes of the society including minorities specifically. Similarly, Article 2 of the USA, Article 15 of the Indian constitution, and Articles 36 & 20 of Pakistan, a signatory of the UN Conventions, envisaged special Articles to protect minority rights. Whereas under Article 36 of the Principle of Policy 1936, which was later incorporated vide Article 20 in the Constitution of Pakistan 1973, respectively. Besides that, they have the liberty to profess and propagate their religion by organizing places of worship and making some legislation, as well as forming various bodies to safeguard the rights of minorities.

Generally, no specific definition *or* classification of minorities has been *formed* in any country, including the UN Declaration 1992 on minorities. Yet it specifies the minorities based on culture, religion, language, and ethnicity. Nonetheless, because of some social *scientists* and intellectuals, certain weak classes or numerically less are also considered minorities, i.e. Women, Children, trance gender or differently able people. Moreover, in pursuance of the UN Declaration on minorities 1992, as well as human rights, the concept of *distinguishing* the population of the country belongs to different classes *incorporated* by the States in their constitutions and different legislations to protect their rights, e.g., the right to profess their religion, right to enrich their culture, participation in power, etc. Whereas, according to the explanation provided by the Special Rapporteur, namely Francesco Capotorti, in the year 1997 explained the minorities as follows:

> *A set of people who are inferior in numbers to the remaining inhabitant of the country and less powerful than the majority despite having Nationality, but parted in different sects, languages, and cultural traditions or religion falls in minority.*

Moreover, despite having the equal status of citizenship, the rights of minorities have been *violated* at the hands of *numerically* large people, who have been *significantly*

concerned mainly about their *protection* and *equality*, *non-discrimination*, *survival*, and *existence* with meaningful *participation* in the power, i.e. Local and National Governments respectively. In contrast, the privileges and rights of minorities are characterized by the following key points: **(i)** Righteousness, **(ii)** Equivalence, **(iii)** Dignity, **(iv)** Liberty, **(v)** Harmony, (vi) Individual rights & (vii) Justice respectively.

Nonetheless, for the protection and recognition of the rights of *minorities*, different *committees* have been formed and worked in the light of *conventions* on human rights to observe the *development* made by the States being a signatory to the UN Declaration 1948 & 1992, including the HRC which administers the *implementation* of the International Treaties on Civil and Political rights such *committee* are as follows (United Nations, 2010);

- **Economic, Social, and Cultural Rights** (*To observe the execution of the International Treaty on Economic, Social, and Cultural Rights*).
- **On the Elimination of Racial Discrimination** (*For observing the application of the International Agreement on eliminating all forms of Ethnic Discrimination.*)
- **For the Rights of the Child** (*To look after the execution of the convention on the rights of the minors*.)
- **For Elimination of Discrimination against Women** (*To administer the execution of the Convention on the Eradication of all forms of differentiation against womenfolk.*)
- **On the Protection of the Rights of All Migrant Workers and Members of their Families** (*It administers the application of the International Pact on the Safety of the Privileges of all Refugee Workers and their family members.*)
- On the **Rights** of persons with **disabilities**. (*It was formed to observe the rights of differently able people.*)

It will be out of the contest to refer here that the rules and regulations in the lawful structure envisage a firm road map for human conduct and offer to implement the same by its authorized organs in the society to guarantee compliance by the citizens the groups to the social values *unified* into the prevailing rules and regulations respectively. It is, therefore, that the law has become a *contributory* factor, which is prescribed inactively and aggressively. Henceforth, at the same time, the legal system provides a remedy to groups of minorities and people to improve the system itself and the standards it incorporates to systematically protect the rights of minorities (Menon, 2017).

The Experience of Minority Groups in their Relations with other Groups

While the decline of 'old war' could be celebrated, given wars have since metamorphosed into transitioned irregular form in the new dispensation, we cannot rest on the glories of ending such wars whose ferocity is felt most by minority groups. The fact that most communities give less concern for minority groups even during times of peace implies the need to address the main contemporary sources of insecurity: their exclusion from participating in crafting a common future for the good of all. Since in large parts of the world, especially Central Asia, East Africa, Central Africa, and currently Ukraine – people still experience great suffering, whether it is more or less than in the

past, the minority group in such communities ought not to be excluded when crafting a peace for all. This is because, as Mary Kalor (2012) asserts, "new wars are associated with state weakness, extremist identity politics, and transnational criminality, and there is a danger that this type of violence will spread as the world faces a growing economic crisis," the plight of minority groups could be made worse. This is true, especially in "the context of spending cuts, there is a tendency for governments to cut the very capabilities most suitable for addressing new wars and to protect their capabilities for fighting 'old wars' (Kaldor, 2012), and disregard minority voices meant for the common good. Unfortunately, as Jarat Chopra and Tanja Hohe (2004, p 243) and Donais and Knorr (2013, pp. 54-55) have noted, the exclusion of "the people" has become a characteristic element of the international community's experience of political authority in postwar states. Most of such excluded persons are those who belong to the minority group.

Conflicts and Peace-building for Minority Rights

Discuss the significance of the results here and relate the results to the available literature. Discuss any study limitations.

The scholarly wisdom of the 1970s and 1980s suggested that ethnic conflicts and even ethnicity would vanish with modernisation and the adoption of new technologies (Cohen, 1974; Thomson, 1989). However, with an avalanche of ethnic violence in the former Yugoslavia, it became apparent that ethnicity and nationalism cannot be explained as a malaise of an "underdeveloped" world nor a mere side-effect of modernisation. There are two dominant paradigms - primordialism and constructivism. In its original form, the former contends that societies are "held together by an infinity of personal attachments, moral obligations in a concrete context, professional and creative ambition" (Shils, 1957, p.131). These attachments and obligations "are not just a function of interaction… [but] attributed to the tie of blood" (Shils, 1957, p.143). However, proponents of primordialism, thanks to the evidence of fluidity of ethnic identities in sub-Saharan Africa and the immigrants in the West (i.e., Brubaker, 2001), abandoned their rigid position and admitted that "[a]fter all our ethnic identities are not stamped on our genes, so they must be socially constructed" (Van Evera, 2001, p. 20). However, this does not imply that ethnic identity can be changed once constructed. The basic tenets of 21st-century primordialism are best summarised by Bayar (2009, p. 1643):

(a) is constructed around sociologically known similarities, especially around kinship, (b) can be assumed as fixed once it is constructed, (c) is solidified by violent out-group conflict and/or mass literacy and (d) has an overpowering impact on behaviour, because humans attribute an ineffable significance to their assumed kinship ties.

In contrast to primordialism, constructivists believe that ethnic identities are entirely socially imagined and that nations are a novelty of the modern world. Based on analyses of France, Germany, and the USA, Brubaker (2001, p. 542) concluded that there is a shift 'from an overwhelming focus on persisting difference […] to a broader focus that encompasses emerging commonalities". Therefore, there are two basic principles of constructivism: individuals possess multiple ethnic identities, and "the identity with

which they identify varies depending upon some specified causal variable" (Chandra, 2001, p.7). In other words, newcomers and natives, while preserving their own identities, simultaneously create a new common identity and then use either the "original" or the newly created, depending on circumstances.

The practical sides of primordialism and constructivism penetrated the most influential instrument of institutional design in post-conflict societies - the consociational model of democracy, offering prompt solutions through an elitist approach, which sometimes comes at a hefty cost. Lijphart (1977) identified four attributes of consociational democracy. First, leaders of divided groups jointly govern the territory. Secondly, a mutual veto mechanism in the decision-making process prevents the larger group from exercising dominion over a minority group. Thirdly, the electoral system is designed based on the principle of proportionality. Proportionality applies not only to political representation but also to the allocation of resources. Fourthly, there is a principle of autonomy that is not necessarily territorial but may also be cultural or religious. These four traits were later transformed into a more complex system of consociational democracy, characterised by grand coalitions, proportionality, segmental autonomy, and veto rights (Lijphart, 2004).

Although the model miserably failed in Africa, most notably in Rwanda (Arusha Accord - 1993) but also in Ethiopia, Somalia, and to a lesser extent in Burundi, it found its way to former Yugoslav republics as well as Northern Ireland and Asian countries.[1] Despite its numerous failures, the model proves to be enduring, and its popularity does not decline. This can be explained by the elastic nature of the model; it is prescriptive and descriptive with an inductive way of reasoning, allowing it to easily cross the lines between international relations, political science, and political theory. Consociationalism also manages to combine the two opposing paradigms - primordialism and constructivism. Thus, Lijphart himself discusses ethnicity as an "unalterable fact" (1993, p.94), while he also embraces the reconstruction of ethnic identity, admitting that there are cases where ethnic identities are "unclear, fluid, and flexible" (2001, p.13).

The wide-ranging approach in practice has implications from a representation point of view. Given the real human cost on the ground, excluding a category in crafting peace might differ from the politically expressed perspective, thus influencing the peace process (MacGinty & Firehow, 2015, pp. 309-310). Of all the criticism levelled against the liberal approach to peace-building over the years, the charge of consistently failing to engage the populations of war-torn states as agents in their own recovery and reconciliation, according to Timothy and Amy C. Knorr (2013), stands as one of the most incriminating. As practiced, the liberal peace-building approach dominated by an institution-building agenda and a broad narrative commitment to human rights, free markets, democracy, and the role of law- has been multifariously seen as being authoritarian, imperialistic, elitist, and aloof from the very population in whose name it ostensibly acts.[2] In Afghanistan, for example, Antonio Domini (2007, p. 160) asserts that international intervention has left ordinary Afghans "disillusioned, dis-empowered, and

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[1] To find a thought-provoking critique of the Ethiopian consociational system and a creative alternative perspective, you can refer to (Belay, 2013).

[2] It is worth mentioning the case of Indonesia where human rights are regarded solely as a necessity for the process of democratizing the state, without any intention of advocating for additional legal reforms aimed at safeguarding human rights (Tampubolon & Costanzo, 2023).

disengaged," while for a time in Bosnia, the international practice of sacking popular elected officials for acts judged contrary to the spirit or the letter of the Dayton Peace Accord- undermined the very notion of democratic peace-building.

Conclusion

While most minority groups are excluded from participation in the socio-political and economic life of many countries, and their participation in peace-building efforts has equally been curtailed due to their lack of power, to facilitate communities to progress, there is a need to include every person who is concerned in building the community peace. Such an inclusive and participatory approach to community peace-building is the Peace-building through Reconciliation approach, which is based on the principles of equality, non-discrimination, and communal functionalism. Such peace-building is premised on the understanding that interdependent ethnic groups are better off learning to coexist than being separated from one another after a violent conflict (Blagojevic, 2007). Integrating reconciliation into political, economic, social, infrastructural, and other levels of peace-building where everyone is given a platform to participate can help address the causes and consequences of ethnic conflict, particularly the legacy of ethnic animosities and intolerance. Such an approach that encourages former belligerents to work together and benefit equally from post-conflict development (Blagojevic, 2007) brings sustainable peace to the community, which benefits all.

The foregone discourse brings to bear that in most communities, minority rights are ignored in the peace-building process, let alone participating in the socio-economic and political life of the people. Yet, having all community sectors participate in their peace brings sustainable peace to all concerned. To ensure that minority rights are observed during peace-building, the international community needs to strengthen legal instruments to that effort so that state parties are seen to implement it in their domestic settings.

Ignoring any given subset of the minority group, especially women, can signal to different actors that some women do not count, do not warrant protection, or have nothing to contribute. The budding academic literature on integrating masculinities into peace-building brings attention to how everyone plays a role in peace-building. Accordingly, Teresa Dumasy (July 2018) argues that "in Colombia, the ability of broader society, including indigenous women's organizations, to meaningfully participate in the implementation of the Peace Agreement is directly linked to the sustainability of the peace process." Exploring the historical experience of indigenous women in Colombia – a group usually absent from political decision-making processes shows how the peace process in Colombia provided an opportunity for them to play a key role in peace-building and the reconfiguration of the political settlement in their country.

Perhaps in the wake to address the above, Julia Schiwal and Kathleen Kuehnast (2021) see the U.N. Security Council's introduction of Resolution 1325 two decades ago that focuses on the differential impacts of war on women to have allowed the global community to endeavor and engage women in all aspects of peace-building. To this end, one of the fruits of this is that 92 countries worldwide have since finalized national action plans to more directly ensure that women are protected and participating in peace-building efforts. This inclusive effort, although critical to the long-term goal of gender equality, has presented challenges to bringing a nuanced and more accurate understanding

of gender to peace-building. At the most basic level, there is still inadequate recognition that women are not a homogenous group, gender is not synonymous with women, and gender is not a binary construct.

Another positive result of peace-building is including young people who have experienced conflict firsthand. In many cases, their vital role in peace-building is seen not as positive forces for peace but rather as threats to it. The report where Dumasy (July 2018) brings together the experience and ideas of nearly 500 young people in five different conflict regions - areas where the perspectives of young people are not often heard, proves that young people are playing pivotal roles in peace, yet their potential remains largely untapped. Further still, the report also shows that young people often have an apparent vision of peace. The report identifies the key changes that must be made to ensure young people are included in creating more peaceful societies. Yet, to reach sustainable peace, there is a need to include all levels of society, from top to bottom, in a process where key societal actors or society as a whole embrace conflict resolution for economic and political leaders to negotiate (Ripsman, 2016).

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