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Language, Ethnic Conflicts and International Law

Most of the world's contemporary conflicts can be described as ethnic conflicts. Though the contexts and players are always different, and the factors involved can be as numerous and diverse as the countries where these conflicts occur, there remains nevertheless an overall pattern which is discernible: most of these conflicts involve minorities, and most of these minorities have grievances against state authorities in the lead-up to the eruption of violence. After considering a number of conflicts in Asia and other parts of the world, this article considers whether it is possible to view these grievances as having a valid basis from the point of view of international law, and more ambitiously, what lessons may be extracted from such an understanding of the underlying causes of ethnic conflicts.

Keywords: Ethnic Conflicts, Language and Minority Rights, Human Rights, International Law

Jezik, etnični konflikti in mednarodno pravo

Večina današnjih svetovnih konfliktov je etničnega izvora. Čeprav so okoliščine in udeleženci različni, dejavniki pa številni in raznoliki kot dežele, v katerih se ti konflikti pojavljajo, je kljub temu moč zaznati nek prepoznaven skupni vzorec. V večino konfliktov so namreč vpletene manjšine, večina teh manjšin pa za izbruhe nasilja krivi državne oblasti. Avtor, ki je proučil številne konflikte v Aziji in drugih delih sveta, se sprašuje, ali so te pritožbe z vidika mednarodnega prava veljavne, in skuša ugotoviti, kakšen nauk lahko potegnemo iz tovrstnega razumevanja prikritih vzrokov etničnih konfliktov.

Ključne besede: etnični konflikti, jezik in manjšinske pravice, človekove pravice, mednarodno pravo

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1. Introduction

The multiple creations do not invite disorder,
Nor are the many languages the enemies of humankind
But the little tyrant must mold things into one body
To control them and give them his single vision.
Yet those who are truly great
On whom time has bequeathed the gift of wisdom
Know all truth must be born of seeing
And all the various dances of humankind are beautiful
They are enriched by the great songs of our planet.¹

This article explores the hypothesis that among the main causes of ethnic conflicts are the policies and practices of national governments which are ethnically biased: it will be suggested that certain types of violations of human rights involving ethnic groups – in particular but not always minorities – may over a period of time have such negative effects and create such an accumulation of tensions and frustrations that eventually violent resistance is seen in certain circumstances as a viable method of either gaining concessions, such as some form of autonomy or minority rights, or even opting for an ‘exit’ strategy of separation from a state whose government is perceived as serving mainly the interests of the majority. It will additionally focus on the results of research involving Asian states and on perhaps less well understood examples of ethnic conflicts to complement the already existing scholarship on such conflicts in Europe.

Though controversial and contested, the hypothesis that grievances against the favouritism shown by states towards the language, religion or culture of a particular group is a prime cause behind the eventual eruption of violent conflict will be examined in order to elucidate the significance of language preferences in the fermentation of ethnic conflicts in many countries, and how the symbolic significance of linguistic identity combines with more practical consequences of language choices to create a particularly sensitive area where denial of the language rights of particularly large, traditional minorities may explain the eventual eruption of conflicts in a number of countries. While this does not deal with the myriad causes that may be involved in the large number of violent ethnic conflicts around the world, it does provide a broad explanation for how many of these conflicts may emerge due to the alleged oppression of a national government based on linguistic, religious or ethnic preferences.

10 2. Ethnic Conflicts in the 20th and 21st Centuries

Now hear this. You are mountain people. You hear me? Your language is dead. It is forbidden. It is not permitted to speak your mountain language to your men. It is not permitted. Do you understand? You may not speak it. It is outlawed. You may only speak the language of the capital. That is the only language permitted in this place. You will be badly punished if you attempt to speak your mountain language in this place. This is a military decree. It is the law. Your language is forbidden. It is dead. No one is allowed to speak your language. Your language no longer exists. Any questions? (Pinter 1988, 255-256).

There is a trend which, for some commentators for whom ethnicity is not a relevant consideration in explaining the causes of conflicts, is inconvenient: the vast majority of wars since the end of the Second World War have not been between states: they are internal conflicts, and most of these wars involve ethnic groups within a country against their own government. At least 70 per cent of the world's conflicts in the last 60 years or so are ethnic conflicts. Less than a dozen of the 150 or so conflicts have been international. It seems that a very high proportion of these happen because governments discriminate against minorities or indigenous peoples.

Great care should be taken when considering such statistics and the case studies that will be used in this article: most of the examples considered here involve Asia as part of research conducted over a period of years, but ethnic conflicts are not a uniquely Asian phenomenon – nor African for that matter – they occur in all parts of the world, developed and lesser developed, democratic and not, including of course in Europe in places such as Kosovo, Macedonia, Northern Ireland, Basque Country, and Corsica. Nor is ethnic diversity itself “a problem”. As one influential study which considered most African states over a long period of time concludes, overall ethnic diversity in and of itself does not have any direct impact on the number of violent conflicts in a state, and indeed given the huge ethnic diversity on that continent it is rather startling to find that the proportion of ethnic conflicts there is in fact extremely low – less than 1 per cent (Laitin & Fearon 1996, 717):

Based on the number of languages in a country (for ethnic groups) in 36 African countries that could be ‘potential ethnic conflicts’, less than one percent actually became violent.

Thus, these observations on the seeming emerging preponderance of ethnic conflicts in the 20th and 21st centuries should not lead to the conclusion that such conflicts are a consequence of modernity. Throughout history, there have always on the contrary existed conflicts between human beings along the fault lines of

religion, language, culture or colour of skin. Even the ancient story of the origins of the word “shibboleth” in the Old Testament involves an ancient account of an ethnic conflict perhaps more than 3,000 years ago:

The Gileadites captured the fords of the Jordan leading to Ephraim, and whenever a survivor of Ephraim said, “Let me cross over”, the men of Gilead asked him, “Are you an Ephraimite?” If he replied, “No”, they said, “All right, say ‘Shibboleth.’” He said, “Sibboleth”, because he could not pronounce the word correctly, they seized him and killed him at the fords of the Jordan. Forty-two thousand Ephraimites were killed at that time (Old Testament, Judges 12:5).

The above story from Judges is perhaps the first in human history involving ethnic cleansing, and is remembered for the killing of the fugitive Ephraimites who were identified by their accent, a linguistic difference, and often a fundamental characteristic between ethnic groups. History is thus replete with examples of ethnic conflicts: one could refer to the conquest, assimilation and extermination of indigenous peoples all over the world, to the removal of the Muslims, or Moors, from the Iberian Peninsula over a period of just over 100 years following the Catholic *Reconquista* in the 15th century, or recount the destructive policies in Australia towards Aborigines from the 19th century, or even the Irish resistance against the English invaders and colonizers that started in the 11th Century and which in a way is still continues in Northern Ireland today, almost 1,000 years later. Intolerance, fear of the stranger, attempts to cleanse one’s territory of others who are different, invasion, colonization, extermination: all of these have long been part of the human condition. They are not alien to what is called today ethnic conflict, and in that sense are not a new phenomenon, only one which has become deadlier, not to say more thorough with new technology and means of transportation and communication.³

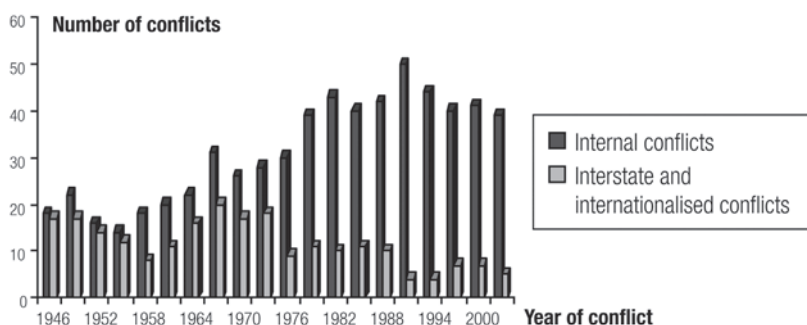
3. Centralisation and the Changing Nature of Ethnic Conflicts

[T]he state is more than a passive register of citizen preferences, and in policy deliberation state leadership and initiative are critical /.../. Here we encounter another paradox: the state is the arbiter and broker of cultural difference, yet the state is unlikely to be wholly neutral in ethnic terms. In the distribution of power within their structures, states inevitably reflect the dominant groups within civil society (by class and interest, as well as ethnic derivation). As noted earlier, many states invest their national personality with the cultural attributes of the leading ethnic community. Even in countries with predominantly civic forms of nationalism, such as the United States, the argument that different communal segments (racial in this instance) were neutrally treated would be impossible to sustain

historically. States are thus asked — figuratively speaking — to leap out of their own skins, to transcend their own cultural nature. Notwithstanding the intrinsic difficulties of this task, and the improbabilities of complete success, we contend that the larger requirements of statecraft — the imperative necessities of stability and comity within the polity — make partial realization possible (Crawford 1994).

While ethnic conflicts are not a new development in historical terms, it is undeniable that they have increased substantially in numbers if not in intensity in the last 60 to 70 years. As the following chart shows, the vast majority of modern violent conflicts are internal conflicts, and most of these could be described as ethnic:

Figure 1: Proportion of Internal versus Interstate Conflicts, 1946-2004



Source: adapted from Harbom & Wallensteen (2005)⁴

In order to understand this increase in ethnic conflicts since the Second World War, a series of long-term historical processes need to be taken into account. While states — particularly in Europe — began to centralise before the 20th century, numerous studies confirm an increased centralization, growing intrusiveness of government in almost all aspects of individual and community life, as well as frequent homogenisation policies as part of the modernization processes of the 20th century (Gellner 1983; Hobsbawm 1993). Whereas before the Second World War it was still possible for many communities and ethnic groups to live in relative isolation from the controlling influence of their national government and the majority ethnic community, and were thus able to lead their lives according to their own culture, tradition and language generally, this kind of situation increasingly evaporated as the reach of the state and the improvement in transport and communication exposed and inexorably enmeshed them in the dominant influence of majority national identity — an identity which is sometimes even imposed violently against the will of minorities and indigenous peoples.

Though this global process has not always been universal, as shown in the case of states which have adopted more decentralised political structures reflective of the country's cultural diversity rather than trying to homogenise it,⁵ these processes have often led to the intensification of contacts between previously isolated cultures within a state's boundaries, with as a corollary to state centralisation and homogenisation policies a more or less direct assault on many ethnic groups' cultures, languages, indigenous political or social institutions, and in some cases even religions. For most if not all minorities and indigenous peoples, the survival of their identity hinged, if not on controlling state political institutions, at least having either a share of the power of such institutions or some kind of protection against the more damaging effects of centralization and homogenisation. Thus, the so-called "rise of nationalism" which many associate with ethnic conflicts in modern times has a lot to do to with the rise of the state, and the consequences of these processes of increasingly dramatic intrusion into all aspects of society for many minorities and indigenous peoples.

It is here that the issues of conflicts, language, religion and the human rights of minorities interconnect and are important to understand. In order to do this, a few case studies based on research conducted in Asia and on the issue of language – though there are of course other examples of conflict where cultural or religious preferences are involved at the time of a conflict's emergence – will help to illustrate perhaps more clearly how the language rights of minorities are disregarded by governments in ways that can lead to conflicts. But before these are considered, it is necessary to get a better understanding of the relationship between how a state, through centralisation and homogenization policies, is contributing, whether intentionally or unconsciously, to a form of bias or favoritism which can have very serious and negative consequences for minorities and indigenous peoples – and how this can thus directly contribute to the causes of violent conflict within their borders.

4. The Effects of State Preferences for Minorities and Indigenous Peoples.

At enim opera data est, ut imperiosa ciuitas non solum iugum, uerum etiam linguam suam domitis gentibus per pacem societatis inponeret, per quam non deesset, immo et abundaret etiam interpretum copia. Verum est; sed hoc quam multis et quam grandibus bellis, quanta strage hominum, quanta effusione humani sanguinis comparatum est?

(Saint Augustine, circa 410)⁶

No government is neutral in terms of its cultural or linguistic preferences: in all of the countries of the world, states favour more or less exclusively one or a few languages for use by the government in its interactions and services to the public; it usually also emphasizes national unity through a common national culture, and in a surprisingly large number of countries also have an official religion. Contrary to what Western liberals pretend, even secular states like the United States or France, are not 'religion-neutral' since in the case of both these countries Christian holy days such as Easter and Christmas are designated by law as public holidays, whereas no holy days of any other religious tradition are. As explained by one observer (Tamir 1993, 148):

The cultural essence of the state comes to the fore in its political institutions and in the official language, as well as in the symbolic sphere, in the selection of rituals, national heroes, and the like. Attitudes toward the political system, the psychological orientation toward social objects, political norms of behaviour, the interpretation of history promoted by the governing institutions, all unavoidably reflect a particular culture. For example, the Israeli parliament is called the Knesset, after the 'Great Knesset', a central religious and political institution in the period of the Second Temple. Modeling itself after 'the Great Knesset', the Israeli parliament has 120 members. Its symbol, the seven-arm candelabra, was a traditional ritual object. The official language of Israel is Hebrew; the Sabbath is the day of rest.

Obviously, these religious, cultural or linguistic choices that reflect that country's national identity – choices made by the state's institutions that in reality tend to mirror those of the ethnic majority – are anything but neutral in terms of religious, cultural or linguistic preferences, and it is the same of all states in the world. Australia may, for example, be considered to be a secular, multicultural state with no official language, but in terms of religion, cultural and language it is not neutral: the main cultural reflected by state institutions is still Anglo-Saxon, English is for all intents and purposes the exclusive language of government, with Aboriginal languages only allowed in a few schools – and for a few hours late in the day – as media of instruction, and the only holy days officially recognised as public holidays are the Christian ones.

Languages are often at the very centre of struggles for power. Some governments at times blatantly discriminate, exclude and even persecute on the basis of language, and a number of violent conflicts around the world are intimately linked to language grievances. In other words, language is power, and the denial of language rights often leads to the denial of power and of opportunities, to marginalisation, frustration, anger and at times violence.

Indeed, in today's global context of almost instant communications and large-scale movement of people, the central significance and role of language is probably even stronger, as language preferences can advantage some and exclude or disadvantage others even more. This is not because some languages are naturally superior to others, but because governments have the power to exclude or disadvantage individuals through their language policies, and all governments almost automatically do so by having one or more official or "favoured" languages. Governments can even actively eliminate languages through a variety of means: the prohibition of speaking a language among private individuals is one way which has almost disappeared today, though not quite everywhere in the world. But there are other ways to eliminate languages: as French historian J. Jullian is often quoted as saying: *une langue qu'on n'enseigne pas est une langue qu'on tue*, you kill a language if you do not teach it.

Even if you teach a language, it is not enough to ensure that it survives or develops and strengthens. A language with no prestige or power is a language which many parents will not see as useful for the success and future of their children, and so they may turn their back on education in their own language if they consider it as powerless or, rather useless, outside of the private or family sphere. As long as a language has no significant prestige, power and opportunities for employment or advancement associated with it, especially in terms of opportunities outside minority or indigenous peoples' homes, what is likely to occur is a noticeable, almost unstoppable trend towards assimilation and eventual extinction of a language through in effect a state's language preferences. This is a phenomenon which occurs in many parts of the world.

There is one common threat that brings the above observations together: often, if not always, the build-up prior to the eruption of a violent ethnic conflict in one state rather than another appears to involve fairly long periods of some form of violation of the human rights of minorities or indigenous peoples, particularly where violations seem to target or affect them negatively because of as aspect of their minority or indigenous identity such as language, religion or culture. In the examples which will be given later, this takes the form of the violation of human rights involving language – in other cases it can also or mainly involve issues around religion or less often culture – which become the focus of perceptions of injustice, frustration and anger that that eventually lead to conflict.

16 5. The Relevance of the Rights of Minorities and Indigenous Peoples to Language Preferences and Ethnic Conflicts

Does not the sun shine equally for the whole world? Do we not all equally breathe the air? Do you not feel shame at authorizing only three languages and condemning other people to blindness and deafness? Tell me, do you think that God is helpless and cannot bestow equality, or that he is envious and will not give it?
(Constantine the Philosopher)⁷

Human rights in international law such as freedom of expression, which protects the private use of a language, and especially non-discrimination, which under certain circumstances may require that a government use a non-official language as a language of state education and administration to the extent that is reasonable and justified, are often the type of human rights violations that are involved.

There is nevertheless a controversy which must be acknowledged with respect to the nature and extent of any kind of language or minority right in international law. There are commentators for whom “minority rights” or “linguistic rights” are a special category of rights which are by nature fundamentally different from human rights in international law. Often they would declare that language or minority rights are not “real” rights: there are no language or minority rights in international law except for Article 27 of the International Covenant on Civil and Political Rights.⁸ Any linguistic or minority right outside of this provision is therefore created because of a political compromise by the government of a country – if it so chooses – or through a new treaty such as the Framework Convention on the Protection of National Minorities.

Such a view is however rather dated, if still fairly common, because it ignores recent developments in international law which are beginning to show how many language rights are protected by fundamental human rights law. For example many judges and lawyers in Europe and elsewhere still disregard the fact that every aspect of the private use of a language can be protected through freedom of expression, or that to a large degree a person’s name in his or her own language can be protected under the right to private and family life, or especially that a government may practise discrimination in violation of Article 26 of the International Covenant on Civil and Political Rights if it refuses in a way that is unreasonable and unjustified to use a minority or non-official language. Even the right to education, according to the European Court of Human Rights in a recent though not very clear judgment (because it seems to contradict directly

a previous and well known decision, the *Belgian Linguistic Case*⁹⁾) can include a right to be educated in a non-official language. Many disregard some of the more recent jurisprudential developments in international law:

- ♦ all private use of a language protected by freedom of expression: UN Human Rights Committee in *Ballantyne, Davidson and McIntyre v. Canada*; ¹⁰
- ♦ State authorities that do not to use a (minority) language (where it is reasonable and justified) may be discriminating on the ground of language: UN Human Rights Committee in *Diergaardt et al. v. Namibia*; ¹¹
- ♦ The right to education can include education in a non-official language: European Court of Human Rights in *Cyprus v. Turkey*.¹²

The relevance of these human rights in international law is important in relation to the language (as well as religious or cultural) preferences of state authorities because they can constitute restrictions on these preferences. It is therefore important in light of the prominence of language issues for minorities and indigenous peoples in many countries, and disregarding these issues can sometimes lead to violent conflict. Language is power – or as the biographer of Isabella of Castile famously wrote in the 15th century, “language has always been a companion of empire” (de Nebrija 1980 [1492], 97) – language preferences can also involve economic opportunity for those whose language is privileged by the state: it is no coincidence that the denial of language opportunities and of a proportionate or appropriate use of a language are often significant factors which have contributed to ethnic conflicts in places such southern Thailand, Turkey Sri Lanka, Ukraine, and China.

This is why the possibility of using freedom of expression and non-discrimination to address the issues of appropriate language policies and preferences within the framework of international law offers a way to peacefully resolve these matters, rather than leave them to what amounts to the discretion of state authorities – authorities who too often tend to be mainly favourable to the ethnic majority, which policies can sometimes lead to dire consequences, namely the eruption of violent ethnic conflict.

International human rights law has unfortunately until now been long disregarded and misunderstood as to where and how these rights might actually play a much more significant role in central matters of identity that are still today at the forefront of many conflicts and sources of tensions. In other words, many language rights are part and parcel of traditional international human rights law, though this may not have been well understood, and is only now beginning to change because of recent jurisprudence. Furthermore, these rights may have the potential of offering peaceful and even practical means for addressing the

18 language tensions and claims which figure prominently in many conflicts in the world.

Language is thus not just important culturally or symbolically: language is power. With language a national government can influence whether a minority is included or excluded from political and economic power or by requiring fluency in the official language to vote or to be elected, and these forms of exclusion or disadvantages are often among the main factors leading to conflicts. It is not language itself – or religion itself in other cases – which causes conflict, but rather whether and to what extent governments exclude or disadvantage individuals because of their language or religion, which can lead to situations of tensions and even conflict.

Nationalist and separatist movements often are born following a period of, and find support and even an ideological basis for their activism in, perceived grievances that often involve language rights and issues. In other words, the denial of the human rights of minorities or indigenous peoples in the area of language rights (and other categories of human rights) will provide the fuel that may serve to inspire and propel the agendas of these movements. To give a recent example in Spain, the 2010 election results in Catalonia showed a fairly strong victory by *Convergència i Unió*, a more nationalistic political party than the previous Socialist Party in the *Generalitat*. This follows a Spanish Constitutional Court ruling¹³ shortly before the election which cancelled some of the autonomy and language provisions under a new autonomy statute which had been negotiated and approved by the national government in Madrid for the *Generalitat* of Catalonia. Indeed, given the scope of the ruling and the predominant role of its assignment to the Castilian (Spanish) language, it is likely to threaten many of the measures that had previously been put into place to ensure the rights to use and strengthen Catalan in that region. Among the results of this perceived threat to the Catalan language and identity: the largest demonstration in that region's history, with more than a million people in Barcelona protesting against the ruling of the Constitutional Court.

It is therefore suggested that the deeply-laid sources of conflicts in most countries experiencing ethnic or minority tensions such as Sri Lanka, Myanmar/Burma, Southern Thailand, Macedonia, Corsica, Indonesia, the Philippines, China, Pakistan and many others, can be linked in the early periods to discriminatory practices in employment, education and other violations of human rights of minorities and indigenous peoples as now understood in international law, often connected to language preferences. This hypothesis was tested by looking at ethnic conflicts involving language preferences in Asia.

6. Case Studies: Language and Ethnic Conflicts in Asia

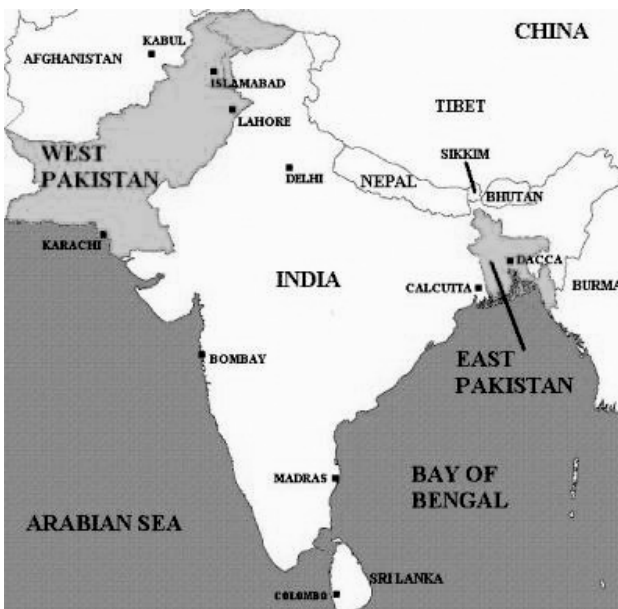
For it hath ever been the use of the conqueror to despise the language of the conquered and to force him by all means to learn his.

(Edmund Spenser, 1596)

Much research has been done in Europe on the causes of ethnic conflicts and even on the role state language preferences has played in these conflicts (Tollefson 2002; Belamaric 2003; de Varennes 1995). Far less has been published on this topic on Asian ethnic conflicts. The following examples will illustrate how, similarly to what has occurred in Europe, the non-respect of human rights in the area of language directly led to the appearance and evolution of the separatist movements in East Pakistan (now Bangladesh), Sri Lanka and Thailand.

6.1. Language Conflict in Pakistan and the Emergence of a New State

Figure 1: Pakistan in 1947 – East and West



Source: Pakistan in 1947 – East and West (2011)

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Freshly-independent Pakistan in 1947 was a strange creature: the new country was divided in two separate regions, East and West, on opposite sides of India. There was of course much more than just physical distances between the two: though the two regions shared a Muslim majority population, there were more importantly major linguistic and cultural differences, the more significant one being that while the vast majority of the East Pakistan population spoke Bengali, the West Pakistan population was much more heterogeneous and spoke, among other languages, Urdu, Pashtu, Punjabi and Sindhi. Ironically, while power was mainly concentrated in the west and the economic and political capitals of Lahore, Karachi, and Islamabad, East Pakistan may have had a slightly larger population than its western counterpart. Be that as it may, the army, police, judiciary and civil service, indeed most branches of government tended to be dominated by West Pakistanis, despite Bengalis being in reality almost a majority.

The origins of the tensions which would lead to the creation of a separatist movement, the Bengali Language Movement and resistance against the central state authorities first appeared in 1951–52 when the Pakistani government announced that Urdu and only Urdu would be made the country's exclusive national and official language. While many countries may only have one official language, in the context of East Pakistan such a language preference by the state had potentially extraordinarily serious consequences for the Bengali-speaking population of East Pakistan. For the most part, this population was largely not fluent in Urdu, which meant that such a policy could result in their virtual exclusion from many areas of employment and positions of power. To be more precise, approximately 98 per cent of the population in East Pakistan spoke Bengali, and most of them were not fluent in Urdu. This meant that they were not only disadvantaged by the government's decision to exclusively use Urdu: they were to be for all intents and purposes almost completely excluded from most jobs and positions in government. Rumblings, calls for changes to this policy and finally massive demonstrations – *hartals* – started to be held in 1952.

Figure 2: March on 21 February 1952 against Urdu as Pakistan's exclusive language



Source: Wikipedia (2011a)

The demonstration on 21 February 1952 resulted in the death of 12 students, killed by the Pakistani army, protesting against the language policies. This event galvanized the spirit and resistance of the Bengali people and led to the erection of the Shaheed Minar, the Martyrs' monument, near Dhaka Medical College where these students were killed. It is also known as the Language Monument and commemorates the struggle for the Bengali language. Eventually, continued violence and pressure led to Bengali being recognized in 1956 as the second official language of Pakistan, but in practice it was never fully implemented, and various governments chose to disregard even its rather symbolic status as second official language. Despite forming the majority of the country's population, the East Pakistani community remained vastly under-represented in the civil and military services, which still tended to use Urdu almost exclusively despite the stated position of Bengali as second official language. In these conditions of exclusion and disadvantage, the Bengali Awami League emerged stronger as a political force and would play a central role in the eventual independence of East Pakistan and its changing into Bangladesh. The 21 February is also remembered in Bangladesh as Language Movement Day and is a national holiday to commemorate the significance of language issues in this ethnic conflict, which led to East Pakistan eventually seceding and becoming an independent country. While there were certainly other factors that led to resistance, violence, war and eventually independence – including a refusal to recognize the electoral results which might have transferred political control to East Pakistan and the mismanagement and diversion of funds intended to assist in humanitarian aid to the victims of a devastating hurricane and floods – the initial central role of language here is indisputable.

In terms of language and human rights, the attempt to make Urdu the exclusive national language in the 1950s could – if it were to be analysed today under international human rights law – arguably be considered, discrimination on the ground of language for individuals who were fluent in Bengali.¹⁴ It was discrimination because it would have been unreasonable and unjustified, given that the Bengali-speaking population constituted about half of Pakistan's population, not to have the government use also the Bengali language, in addition to the national language Urdu, in government employment, state schools, the army and the police. More precisely, the impact of an Urdu-only policy in areas of state employment (army, police, civil service, etc.) would have meant the exclusion of most Bengalis from employment opportunities, since the vast majority of them lacked fluency in Urdu. In other words, the Urdu-only policy would have constituted discrimination by the government in practice in state employment, as well as in other areas such as state education because of the very serious consequences for more than half of the population of the country, to only

use Urdu as the language of government was unjustified and unreasonable in the circumstances, and therefore discriminatory in international law. This does not affect its official status, only that the exclusive use of that language was excessive.

This is an area that is still developing in international law, but in terms of language use by a government and the right of non-discrimination, the need for reasonable and justified language preferences by a government would suggest that there must be some kind of “linguistic proportionality”: when there is a sufficiently large linguistic group involved, they have a right to have their language used to an appropriate degree in the institutions and activities of the State, including employment and education.

6.2. Sri Lanka: Not so Serendipitous in Language

Another example of the prominence of language issues and the relevance of the human rights of minorities in ethnic conflicts is the terrible tragedy of the civil war in Sri Lanka, a conflict which has lasted more than three decades now and resulted in tens of thousands of people, perhaps as many as 100,000, being killed.

Figure 3: Sri Lanka: darker shaded areas are regions where the Tamil population is concentrated



Source: Wikipedia (2011b)

Sri Lanka contains many of the same ingredients as obtain in the Bengali movement, though the Tamil-speaking population represents somewhat more than 20 per cent of the total population of the country.¹⁵ Similarly to the

Bengalis in Pakistan, the Tamil minority is fairly concentrated in a clearly distinct and traditional part of the country's territory, in this case the north and east of Sri Lanka. At independence in 1948, the Sri Lankan government was initially committed to having both Tamil and Sinhala as official languages, but this was never implemented. Relying on the Sinhala-speaking majority, the government eventually adopted only Sinhala as an official language along with English. English was removed as an official language in 1956 by another government more closely identified with the ethnic Sinhalese majority, and Sinhala remained as the country's sole official language.

In practical terms, through these laws and other policies, members of the Tamil minority were being increasingly excluded from many if not most positions in the civil service of the government. Tamils began to be disadvantaged in terms of access to jobs because of the linguistic preferences adopted by the government, since at the time – though that has since changed today with the Tamil language enjoying secondary official status – few Tamils were fluent in Sinhala. They were, however, often bilingual, but mainly in English and Tamil.

It must be admitted that the Sri Lanka government arguably had valid reasons to try to increase the status of the Sinhala language after it had been sidelined by British colonial authorities, but unfortunately in trying to buttress the language and privilege members of the majority, the Sinhalese government went too far. In terms of international human rights, the constitution, laws and policies, which for a period of time made the Sinhala language the only language of government and its services and employees, were unreasonable and unjustified in not allowing the additional use of the Tamil language in some areas.

While at independence in 1948 Tamils initially sought specific minority guarantees in the constitution (such as half the number of seats in Parliament or some other guarantees), more nationalistic movements were gradually initiated, demanding some form of autonomy. Eventually – because none of the earlier demands of the Tamil minority were being met – more radical segments of the Tamil population became convinced that there was no way they could trust the government controlled by the majority: some took this to mean that the only path left open to them was to have their own independent country – even if it meant using force to reach this goal. In other words, a violent ethnic conflict would eventually emerge as anger and frustration at the government policies that excluded or disadvantaged them in areas such as employment, education, and access to land. A new constitution in 1972 for example enraged the Tamil minority because it made Sinhala the only official language. This had been stated before in legislation, but confirming only Sinhala as an official language in the

constitution itself was perhaps the last straw since once enshrined in the country’s basic foundational law Sri Lanka was to be seen – legally and symbolically – as a nation with only one language.

By the early 1970s therefore, the march towards a violent conflict continued with the increasing feeling among many Tamils that the national government was treating them as second-class citizens, as the government’s language and education policies in particular was perceived as threatening their future and that of their children. Their demands initially were for laws and a constitution that reflected their concern at the growing “Sinhalisation” of the government and the country, but they did not yet call for secession. The first calls for an independent country for the Tamils appeared in May 1976 with the Tamil United Liberation Front (TULF). The violence had already appeared by then, and when the government started to change its language policies from about 1978 to start to remove some of the discriminatory measures, it was by then already a case of “too little too late”. There were some assassinations and attacks, but then in 1983 a small group of militant Tamils killed 13 Sinhalese soldiers. Riots broke out and in Colombo and other parts of the country groups of Sinhalese men killed perhaps 1000 Tamils in five days – five days during which the army and police did not seem to attempt the stop the massacre. These riots radicalised most Sri Lankan Tamils who organized into an army and it is then that a full blown war erupted.

From the point of view of international human rights law, it would seem fairly certain, because of the very serious consequences of many aspects of the language laws and other measures that so unfavourably excluded a large number of Tamil-speakers, that part of that country’s constitution and laws were discriminatory. The extent of the exclusion of Tamils from areas such as employment in the civil service over a few decades is in fact quite staggering, as shown in this chart:

Table 1: Proportion of Tamil- and Sinhala-speaking government employees 1946-2004

	Sinhala	Tamil
1946		
Judiciary	46,7%	20%
Civil Service	44,5%	28,9%
1980		
Entire Civil Service	85%	11%
2004 (estimate)		
Entire Civil Service	90%	8,5%

Source: de Varennes (2010, 93)

There were other forms of discrimination: various schemes made it easier for Sinhalese students to be accepted at university than Tamil students;¹⁶ land and assistance was mainly allocated by the government to Sinhalese settlers in areas perceived as part of the Tamil homeland (Peiris 1994); older Tamil employees of the government were fired or did not receive salary increases if they did not learn Sinhala quickly enough, etc. Even today, reports indicate that Tamil speakers who are not fluent in Sinhala are at a serious disadvantage in their dealings with the state in many parts of the country, and one could argue that this is still a degree of discrimination in some areas of government through the still unjustified and unreasonable language preferences of the state in practice. Government language policies are not always implemented, and many public institutions issue forms in Sinhala only or in Sinhala and English.

The slide towards ethnic conflict, and the growth of nationalist and separatist movement in Sri Lanka, as in Bangladesh, was therefore clear: continued discrimination such as the Sinhala-only rule and denial of the language rights of the Tamil-speaking population led to the civil war in Sri Lanka.

6.3. Language and Conflict in the Land of Smiles: Thailand

Finally and briefly, Thailand is the venue of a conflict involving language that is poorly known in the West, where it is usually subsumed – if considered at all – as involving a religious conflict because it pits Thai authorities against a Muslim minority, though the points of tension and conflict are probably more linguistic than religious.

Figure 4: Malay-speaking insurgency in the southern provinces of Thailand



Source: Wikipedia (2011c)

As in Pakistan and Sri Lanka, Thailand is the home of a quite large and territorially concentrated minority, some 5 – 6 million Malay-speaking Muslims, who represent 80 per cent of population in the country's south bordering Malaysia.

The history of this conflict includes the legacy of a malleable border between Thailand and Malaysia: indeed, southern Thailand and the present-day provinces of Narathiwat, Pattani and Yala, along with parts of western Songkhla, were only recently incorporated into Thailand (then Siam), namely after 1902. As one report on the historical roots of the conflict explains (Melvin 2007, 13):

The imposition of Siamese power was also accompanied by a range of measures aimed at strengthening Thai culture in the southern provinces. These were important causes of local discontent in the early and mid-20th century and a number of rebellions were launched. The use of education to promote Thai language and Buddhism and the key role of Buddhist monks in this system emerged as particular areas of contention. The effort to promote assimilation of the Malay Muslim communities in the South was particularly focused on displacing the *pondoks* (Muslim religious schools), which traditionally performed a central function in the reproduction of Malay Muslim culture and identity. One of the most controversial elements of the assimilation campaign was the 1921 Compulsory Primary Education Act, which required all children to attend state primary schools for four years and to learn the Thai language.

Though religious issues did contribute to the causes of this conflict, it is noteworthy how the Thai state's language preferences and restrictions probably contributed even more to the use of violence by some members of the Malay minority against the institutions of the state. This explains also the choice of some of the targets of the insurgents, which may at first seem surprising: since 2004, for example, more than 4,000 people have been killed, 120 public schools have been burned down and about 100 teachers have been murdered by ethnic Malay insurgents. The targeting of schools and teachers may initially seem odd, yet it can be seen as an attack on the symbols of the Thai language and culture and the Thai central government, since even though the Malay-Muslim population number about 80 per cent of the total in the southern provinces and 6 million of them use the Malay language on a daily basis, only Thai is the language of government, public education, and opportunity. There were of course other contributing factors to the separatist movement.¹⁷

To a large degree, it is the imposition of a single and exclusive language, Thai, as the language of education, of public health care, and of employment in the civil service which has resulted in both very poor academic results and low presence in almost all fields of employment involving the state – a choice field of opportunities in a developing country like Thailand. The end result of this

linguistic policy of exclusively preferring the Thai language is a degree of under-representation and exclusion in the southern part of the country which, in all likelihood, would be deemed unreasonable and unjustified in the circumstances. Thus, the distinction on the basis of language which the imposition of only Thai creates in that region could be deemed to constitute discrimination in international law, contrary to Article 26 of the International Covenant on Civil and Political Rights, along the same lines as occurred in *Diergaardt v. Namibia*, though there are significant differences between the two and such a result would require an expansion of the legal reasoning used in that case.

What is less uncertain is that the linguistic imposition of the sole use of the Thai language and the exclusion of the Malay language from any official use – with the ensuing disadvantages this caused for the about 6 million Malays in the region, combined with religious and other forms of grievances – created the conditions for violence and conflict in southern Thailand which have been percolating for decades. Almost all of the teachers, the police, the employees of the government in this region, despite the Malays numbering many millions, are occupied by ethnic Thai, not members of the large Malay minority. Indeed, this is confirmed when one takes a closer look to what appear to be the main demands of the rebels, though these are not always clearly articulated (Melvin 2007, 33):¹⁸

While there has been no definitive articulation of demands from the side of the insurgents, the pattern of attacks suggests that a set of long-standing political grievances are the main issues of contention in the conflict. These include a rejection by many in the South of the centrally imposed state education system; a strong sense of discrimination against Thailand's Malay Muslim population in employment; and the inability to use the local form of the Malay language in many — especially official — settings.

These examples – Pakistan, Sri Lanka and Thailand – point to an observable and consistent pattern: the denial of what would be considered today the human rights of minorities and indigenous peoples in international law, when they seriously exclude or disadvantage over a long period of time a significant proportion of the population – especially where this involves a large, traditional minority concentrated in one part of the country – such a denial has a good chance of creating the tinderbox conditions where the flames of conflict can easily erupt.

6.4. Rights, Grievances and the Causes of Ethnic Conflicts Worldwide

It would be simplistic to affirm that the violation of human rights is the cause

of ethnic conflicts. There are even observers who deny ethnic grievances have any direct effect on the emergence of violent conflicts. Nevertheless, there are numerous examples around the world which show that in many, and perhaps most, ethnic conflicts in the Americas, Asia, Africa and Europe, grievances surrounding the denial of the human rights of minorities and indigenous peoples, especially involving issues of discrimination in employment, education, land ownership and even the right to vote, to run for office or to become a citizen, often figure prominently in the initial stages leading up to violent conflict. The following examples on a number of these continents highlight some of the more obvious causes of these tensions:

Table 2: Discriminatory factors in rise of conflicts worldwide

State and Conflict	Root-causes of initial tension	Right(s) Involved
DR of Congo (Banyamulenge)	Denial of citizenship, employment opportunities and associated rights of the Banyamulenge minority	discrimination
China (Uighurs)	Displacement of Uighur language in most public institutions by Standard Chinese (Putonghua), under-representation of most Uighurs in public service employment, virtual elimination of Uighur as medium of education at university level, increasing replacement of Uighur by Putonghua at high school level, restriction on teaching of Islam to children, transmigration and land policies which favour Han Chinese and disadvantages Uighur	Non-discrimination, land rights, language use, education, employment in public service
Indonesia (Aceh)	Exclusion of the Acehnese language in most public institutions, under-representation of Acehnese in public service employment, transmigration and land policies which disadvantages native population	Non-discrimination, land rights, language use, education, employment in public service
Indonesia (Ambon)	Exclusion of the local languages in most public institutions, under-representation of native Ambonese in public service employment, transmigration and land policies which disadvantages native population	Non-discrimination, land rights, language use, education, employment in public service
Indonesia (Irian Jaya)	Self-determination, exclusion of the local languages in most public institutions, under-representation of native populations in public service employment, transmigration and land policies which disadvantages native population, non-recognition of the rights of indigenous populations, including traditional forms of land-ownership	Non-discrimination, land rights, language use, education, employment in public service, indigenous peoples rights

State and Conflict	Root-causes of initial tension	Right(s) Involved
Indonesia (West Kalimantan)	Exclusion of the local languages in most public institutions, under-representation of native populations in public service employment, transmigration and land policies which disadvantages native population, non-recognition of the rights of indigenous populations, including traditional forms of land-ownership	Non-discrimination, land rights, language use, education, employment in public service, indigenous peoples rights
Moldova (Transdnestr)	Replacement of Russian by Romanian in most areas of public life, increasing disadvantages and exclusion of Russian-speakers from employment opportunities in public and private sector	Language use, non-discrimination
Niger (Tuaregs)	Non-recognition of right to use minority language by public authorities including public education, under-representation of Tuareg population in public service employment, transmigration and land policies which disadvantages native population,	Discrimination, language use, employment in public service, education
Philippines (Mindanao)	Historical land and transmigration programmes favouring the influx of Christians in traditional Muslim territory,	Non-discrimination, land rights, language use, education, employment in public service
Spain (Basque Country)	Oppressive measures against Basque language and culture during Franco regime, abolition of previous autonomy arrangements	Non-discrimination,
Use of minority language by public authorities, freedom of expression	Exclusion of the local languages in most public institutions, under-representation of native populations in public service employment, transmigration and land policies which disadvantages native population, non-recognition of the rights of indigenous populations, including traditional forms of land-ownership	Non-discrimination, land rights, language use, education, employment in public service, indigenous peoples rights
Sudan	Forced Arabisation of minority southern populations, denial of human rights in the area of religion and language	Discrimination in employment and education, use of minority languages, freedom of religion, etc.
Turkey (Kurds)	Language policies which excluded until recently public and even private use of the Kurdish language,	Discrimination, denial of freedom of expression, repression of Kurdish language and culture
United Kingdom (Northern Ireland)	Widespread exclusion of Catholics from employment opportunities, housing, voting rules favouring Protestant majority at municipal level, etc. in 1950s and 1960s	Discrimination in housing, voting rights, employment by public authorities
Yugoslavia (Kosovo)	Abolition of autonomy status, massive dismissal of ethnic Albanians from public service employment, gradual exclusion of Albanian language from end of 1980s	Discrimination in education, employment and housing, right to use minority language

While this list does not pretend to be exhaustive, it does among other things identify many conflicts where the state's language preferences have contributed directly to causing the conditions under which conflicts may appear. As the examples of Pakistan, Sri Lanka and Thailand show, this is probably due to the fact that language, in addition to the important position it occupies in the identity of many ethnic groups and its symbolic potential as a unifying banner and a link to a group's history and cultural continuity, also has direct and practical consequences for individuals in terms of employment and education.

7. Conclusion

And from His signs is the creation of the heavens and the earth, and the variety of your languages and colors; surely in this are signs for the learned.
(The Qu'ran – Surat ar Roum 30:22)

The violation of the human rights of minorities and indigenous peoples does not necessarily cause conflicts: it does however create conditions which nationalist or separatist elements can exploit, or where the situation could spiral out of control after some unforeseen incident. It seems that governments which breach the basic human rights of minorities and indigenous peoples, especially in relation to language because language carries with it power, economic and social opportunities, and do not respond to the serious grievances of a substantial proportion of their population but allow the situation to simmer over long periods of time, are preparing the way to a potential violent conflict. It is often when minorities or indigenous peoples are subjected to discrimination, especially in areas like employment or education, or are unable to use their language with public authorities in a way which is broadly speaking proportionate, that the situation can after a period of time erupt into violence.

Once a conflict has started, it becomes extremely difficult to extinguish, and complying with these rights may no longer be sufficient to turn the tide. But before violence has reached that level, before the ethnic groups have become completely distrustful of the state and the country has become divided and polarised, respect for these human rights may be enough to maintain a peaceful, democratic society based on the rule of law, but without, in the words of Alexis de Tocqueville 2000 [1835, 1840], the "tyranny of the majority".

Notes

¹ Poem by Mazisi Kunene from "The Ancestors and the Sacred Mountain", quoted in Skutnabb-Kangas & Cummins (1988, 176).

² See for example this suggestion in Collier (2008, 21-25).

³ Language was not an infrequent marker of identity in the past, and thus served at times as a marker and even a rallying flag in a number of ethnic conflicts in history, some of which are not widely known, such as the Soweto Uprising in South Africa. The role of language seems to have become more prominent in all societies in the 20th and 21st centuries however, since language is not only a way of distinguishing individuals of different groups – of dividing the "us" from "them" – but also the privileged medium of communication, exchange and education in a world where literacy and the exchange of information at a faster and faster pace in at least one language is no longer only a luxury but a necessity. This brings with it the need to use and privilege at least one language – and is often a state-imposed language which does not necessarily always benefits all of its citizens.

⁴ The data used for this chart are presented with greater precision in Harbom & Wallenstein (2005).

⁵ Canada, Belgium, Ethiopia, India, post-Franco Spain, Switzerland and many other countries have adopted forms of federalism and autonomy which incorporate the multicultural and multilingual reality of their populations.

⁶ *De Civitate Dei, Epistula de libris de civitate dei*, circa 410. Liber XIX, c. VII. English translation: "But the imperial city has endeavored to impose on subject nations not only her yoke, but her language, as a bond of peace, so that interpreters, far from being scarce, are numberless. This is true; but how many great wars, how much slaughter and bloodshed, have provided this unity!" Saint Augustine, *The City of God* (circa 410), Book XIX, Chapter 7, p. 683.

⁷ *The Life of Constantine* by Clement of Ohrid, 9th century, reprinted in Kantor (1983).

⁸ The provision provides that, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

⁹ Case "Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium" v. Belgium. For more detailed information see European Court for Human Rights (1968).

¹⁰ For more detailed information see UN Human Rights Committee (1989/1993).

¹¹ Case J.G.A. Diergaardt (late Captain of the Rehoboth Baster Community) et al. v. Namibia. For more detailed information see UN Human Rights Committee (1997/2000).

¹² Judgment of 10 May 2001 (Grand Chamber), paragraph 251. For more detailed information see European Court for Human Rights (2001).

¹³ Sentència del Tribunal Constitucional 31/2010, de 28 de juny de 2010.

¹⁴ This would probably be the result if one were to apply the legal reasoning of the UN Human

Rights Committee in *Diergaardt v. Namibia*, but is also broadly consistent with the approach used by the European Court of Human Rights in the *Belgian Linguistic Case*.

¹⁵ Their exact proportion of the population remains uncertain and contentious. Not all people born in Sri Lanka automatically had citizenship of the country: a large percentage, perhaps around 5 per cent, were until recently not considered citizens because they were “Plantation Tamils”: workers brought by British colonial authorities from India to work on tea plantations and in other economic activities. In addition to these are the Moors: Muslim inhabitants who also had in large part adopted the Tamil language. They constitute around 7-8 per cent of the country’s population.

¹⁶ In 1974 the government of Sri Lanka put into place a “district quota” system in science and medicine admissions to universities to redress the low numbers of Sinhalese students in these programs. Each district had a number of reserved slots for students living within its boundaries. While seemingly non-ethnic since the system is based on geographical districts and not ethnic background, in reality this would guarantee admission of larger numbers of Sinhalese since, as the majority in the country, they also dominated a majority of districts. As a result the ratio of admissions of members of the Tamil minority dropped significantly from previous levels. In the 1980s, 60 per cent of university admissions were allocated on this basis, with the rest on individual merit.

¹⁷ See for example Walker (2005, 85): “Muslim Malays under Thai rule in the late 1960s and the 1970s identified some highly specific grievances as pushing them since the death of Haji Sulong nearer and nearer to secessionist revolt. One ever-deepening grievance was the Thai Government’s long-standing encouragement stepped up since 1968 of Thai settler migration to ready-built self-supporting villages in the South. A British journalist who visited South Thailand in late 1970 found that Muslim militants there regarded this as an effort to submerge the Malay population and make South Thailand a predominantly Thai area.”

¹⁸ See also along the same lines International Crisis Group (2005).

¹⁹ An extensive study reported Fearon & Laitlin (2003) is often quoted to this effect. Fearon and Laitlin subsequently modified their 2003 conclusion on this point on the basis of further research tended to raise doubts about their interpretation. Criticisms of their 2003 results pointed out for example that their measurement of what constituted discrimination in determining if grievances were a cause of ethnic conflicts was misleading, since it relied on whether a language of any group representing more than 5 per cent of the population was official or not. As any jurist should know, the designation of a language as official does not guarantee it will be necessarily used by state authorities. It is therefore not a reliable indicator as to whether there are still grievances on the ground of language involving that particular minority’s language and its use by authorities.

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