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JURISPRUDENCE AND MULTI-ETHNIC STATES

State and ethnicity

We naturally think of ethnicity as having a life of its own independent of the state. Race, color, language, religion, customs, or geographical origins define people regardless of what governments, laws or constitutions say. [1] People acquire characteristics of race or color involuntarily by biological descent. They learn to speak a language in the family – even if they learn to write it at school. Religions, customs and other ethnic identities and practices are usually acquired in similar non-political ways.

A moment's reflection, however, discloses that we cannot think of ethnicity for long before the state begins to intrude. Consider race. Shared physical characteristics can easily influence social attitudes and behaviour. A particular race can be esteemed, another despised. This may be reflected in political and constitutional standing in a state. Laws may discriminate in favour of the esteemed and against the despised. A political struggle might ensue to reduce discrimination or to maintain it. History provides countless examples. The contemporary world offers as many.

The same can be said of religion or language. A very significant part of European political history involves religion: theocratic states; schisms; reformations; wars of religion; religious discrimination or toleration. For centuries religion was an issue of inescapable public significance which governments could not ignore. Religious obligations, liabilities, liberties and eventually rights were embodied at one time or another in European constitutions, laws or administrative regulations. What can be said of religion can be said also of language. Is the language tolerated? Can it be taught outside the home? Can it be a medium of instruction in schools? Can judicial proceedings be conducted in it? Can it be used for communicating with public officials? Can it be broadcast on radio or television? Is it an official language?

Many other illustrations could be given but I hope this will suffice to establish the first point which is that state and ethnicity are commonly entangled often to the extent that it is virtually impossible to consider the one without the other.

What are the main implications of ethnicity for the state? This is a complicated question and I have the space for only a simple answer. Ethnicity is a perceptible and often visible characteristic which inevitably makes it a public rather than merely a

private phenomenon. It is usually shared by large numbers of people: ethnic markers differentiate substantial population groupings in multiethnic states. Moreover, perceptible ethnic differences are often reinforced by social behaviour: people of common ethnicity choose either voluntarily or as a result of compulsion to interact more intensively with themselves than with others. Once we begin to speak of significant numbers of people with publicly distinctive characteristics which shape social behaviour we are into the world of the state.

Since ethnicity is a way of life that usually can be conducted successfully only in public it is of interest to state authorities. The state may even awaken ethnicity in people – as when democratic politicians make ethnic appeals in order to win elections or repressive politicians create ethnic scapegoats. Once politicians are interested in something we can be certain that laws and regulations will not be far behind. In short, because it is inherently a political phenomenon ethnicity inevitably captures the attention of the state.

What are the main implications of the state for ethnicity? The quality of ethnic life can be affected for better or worse by public authorities. The state can grant the ethnos constitutional standing, great or small, or deny it. Unless the state is indifferent to ethnicity, government laws and administration will affect it. And even if they are blind to ethnicity public policies may still influence ethnic life unintentionally – as when laws in some Western states forbidding the carrying of concealed weapons interfere with the cultural life of Sikh males who are bound by their religion to wear ceremonial swords. Neglect is unlikely in a democratic age such as our own when the state derives its legitimacy from the people. Democratic politicians are far more likely to react to ethnicity and transact with it. The state can enable the ethnos or disable it and will almost always regulate it one way or another, lightly or heavily, directly or indirectly, intentionally or inadvertantly.

Constitution and ethnicity

What have constitutions to do with ethnicity? This question is not asked as often as one would expect in today's world of pervasive ethnic awareness. This appears to be owing at least in part to a disciplinary division of labour between jurisprudence and social science: legal theorists have neglected ethnicity and social theorists have not devoted a great deal of attention to constitutional issues. The two subjects usually have not been brought together within the same analysis.[2]

Since the term is employed in various ways we must be clear what „constitution" signifies for the purposes of this discussion. A framework of non-instrumental rules which govern public life including the conduct of the rulers and which cannot easily or arbitrarily be changed by them or by anyone else is what I consider a constitution

1 For a concept of „ethnicity" in terms of these indicators see Robert H. Jackson, „Ethnicity", in Giovanni Sartori, ed. Social Science Concepts: A Systematic Analysis (Bevery Hills: Sage, 1984), pp. 227–228.

2 For two noteworthy exceptions see L. S. Lustgarten, „Liberty in a Culturally Plural Society", in A. Philips Griffiths, ed., Of Liberty (Cambridge: Cambridge University Press, 1983) and Claire Palley, Constitutional Law and Minorities, Minority Rights Group Report No. 36 (London, 1978).

properly socalled to be. Constitutional rules are significantly independent of rulers. Rules also govern constitutional change. A constitutional state is a rule-based political order whatever particular shape the rules might take from one country to the next. In such a state primary rules – e. g., parliamentary procedures – structure the writing of secondary rules – e. g., parliamentary statutes.[3] The latter in turn establish regulations – delegated legislation in parliamentary governments – according to which public policy is administered and enforced. The point of a constitution is obviously to confine the exercise of state power within a legitimate framework of non-instrumental procedures. Ideally a constitutional government operates in accordance with political liberty and the rule of law.

This definition postulates a constitution as a part and indeed a central part of a political way of life understood and subscribed to by all who are subject to it: constitutionalism. We speak of such constitutions as normative or substantial which is the case by and large in Western democracies. However, some constitutions are never institutionalized. They are merely nominal with no real purchasing power on human conduct. This has proved to be the case with many constitutions in the Third World, Finally, there is a class of constitutions which are merely semantic: a mask on power.[4] The word „constitution" in this usage denotes an apparatus of power and not a framework of noninstrumental rules. Arguably this has been the case at least until recently with the constitutions of Eastern Europe and the Soviet Union – although it may now be changing with the advent of glassnost and perestroika.

Constitutions obviously have implications for ethnicity and vice versa. Constitutional language may accomodate and legitimate ethnicity, as in the case of linguistic communities under the 1982 Canadian Constitution Act discussed below. It may be blind to ethnicity which has generally been the case historically in Britain and the United States. Or it may recognize ethnic categories but seek to control and confine them: the fate of non-white racial groups in the apartheid legal order in South Africa.

A constitution can gain or lose legitimacy from those who identify with particular ethnic communities. If a national population is divided along ethnic lines, a constitution can make provision for ethnic liberties, rights and privileges or fail to do so. If ethnic communities are protected by a constitution they might become loyal to the constitutional order. If they are denied constitutional standing or discriminated against by law, they will be unable to claim the assistance of the state by constitutional right. They may come to resent laws which neglect, dishonour or hobble them.

A sizeable repertoire of constitutional devices for multiethnic states is available today. I only have the space to summarize them.[5] Some deal with territorial group autonomy: federalism, regionalism, devolution and various forms of administrative decentralization and local government. Some focus on political representation, including separate electoral rolls and seats for different ethnic groups, proportional representation, bicameralism with communal representation (usually in upper chambers), ethnic group veto powers in legislatures on issues of constitutional amendment, and

3 For a somewhat different conception of primary and secondary rules see H. L. A. Hart, The Concept of Law (Oxford: Clarendon Press, 1961), ch. V.

4 These distinctions are from Karl Loewenstein, „Reflections on the Value of Constitutions in Our Revolutionary Age", reprinted in Harry Eckstein and David E. Apter, ed., Comparative Politics: A Reader (Glencoe: Free Press, 1963), p. 154.

5 They are reviewed in Palley op. cit.

even special communal legislative bodies. Some concern ethnic group participation in executive decisionmaking, such as formal or informal power sharing, ethnic representation in executives and the civil service. Various other devices aimed at protecting the personal or family law of minorities, the ways of life of aboriginal peoples, and the ethnic association of immigrant communities have also been developed.

Constitutions and ethnicity have come into contact in three different political contexts since the end of the Second World War. Decolonization in Asia, Africa and Oceania involved the attempt to institute written constitutions which aimed at least in part at accommodating the multiethnic society – „primary ethnicity" – which had formed within the framework of many colonial jurisdictions. The British in particular attempted to find appropriate constitutional devices for accommodating the plural society.[6] The second context was unprecedented non-Western immigration into Western Europe and North America – „secondary ethnicity" – induced partly by European decolonization – as when non-European holders of British passports entered Britain from South Asia or East Africa – and partly by European economic union and prosperity – as when some Turks migrated north into labour scarce Germany in search of employment.[7] The third context is the constitutional accommodation of traditional nationalities in the Soviet Union and Eastern Europe – particularly Yugoslavia. Although this experience is very important, I am not sufficiently conversant with it to comment.

Decolonization continued „the epidemic of constitution-making" after the war which according to Karl Loewenstein „has no parallel in history".[8] The following remarks are confined to the African experience. Many independence constitutions in former British colonies disclosed an attempt to accommodate ethnicity by various constitutional devices. The British Hansard Society for Parliamentary Government considered the multi-ethnic society to be a central feature of many colonies and analyzed various constitutional approaches to it including federal government, communal representation, proportional representation, the cumulative vote, and legislative bicameralism, among others.[9] These devices in various combinations were experimented with in different places. Speaking generally, an attempt was usually made to determine the particular measures best suited to individual countries. Subsequently, this constitutional thinking developed into a distinctive theory known as „consociationalism".[10] A recent target of consociational thought is South Africa and the extremely difficult – some would say impossible – problem of finding constitutional arrangements for extending political participation to blacks without threatening whites.[11]

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6 See Martin Wight, British Colonial Constitutions (Oxford: Clarendon Press, 1952).

7 The handy distinction between „primary", „secondary", and „tetriary" ethnicity was drawn to my attention by Fred W. Riggs, „Memorandum to Participants in IPSA Round Table on Problems of Ethnic Terminology", (Marc 1988).

8 Loewenstein op. cit., p. 149.

9 See Problems of Parliamentary Government in Colonies (London: Hansard Society, 1953), ch. 5.

10 See W. A. Lewis, Politics in West Africa (London: Oxford University Press, 1965) and Arend Lijphart, Democracy in Plural Societies (New Haven: Yale University Press, 1977).

11 See Arend Lijphart, Power-Sharing in South Africa, Policy Papers in International Affairs, No. 24 (Berkeley: University of California Institute of International Studies, 1985).

Most of this constitutional engineering proved unsuccessful,however. The reasons why are complex and not yet fully understood. I can only summarize a few of the more familiar explanations.[12] One reason clearly was the haste of constitutional decolonization. Entire populations which had been ruled as colonial subjects in a more or less authoritarian manner were suddenly asked to operate as citizens according to new democratic constitutions imported from abroad. Constitutions and cultures were often incompatible. Few indigenous people were familiar with the practice of modern constitutional self-government. Important ethnic groups frequently had no desire to be part of a larger constitutional order unless they could dominate it. Otherwise, they preferred to possess an independent state of their own. The possibility of living together peacefully with other ethnic groups under a common citizenship was an alien idea which presupposed a level of toleration that often did not exist. Ethnonationalism sometimes threatened weak multi-ethnic states and resulted in civil discord and sometimes outright civil war. In short, those who were expected to behave in accordance with the new constitutions usually were not sufficiently trained, equipped or disposed to do so. The constitutions were nominal rather than real.

A second historical point of contact between constitutionality or rather legality and ethnicity has been immigration into Western states from various parts of the non-Western World with the result that the populations of these states are increasingly multi-ethnic and often multiracial. This development has rightly been characterized as „one of the most important social changes that has occured ... since the war; every reasonably populous (Western) state now has ethnic minorities of considerable size within its borders." [13]

Since the states which received this immigration were already significantly rule-based in their system of government the resulting problem was not that of creating constitutional government in the first place but only of adapting constitutional and legal practices to the new sociological reality. Although this adaptation has not been as easy or as succesful as one might hope and continues to present many problems, it has not been as difficult as establishing constitutionalism in non-Western multi-ethnic states. The new culturally distinctive and often visible minorities raised the following kinds of question: shall the immigrant groups be (i) subjected to inferior legal status, (ii) allowed the same liberties and rights as everyone else, or (iii) granted special legal status and rights? (I exclude policy responses such as assimilation, relocation and various other domination devices which are not „constitutional".)

It has not been uncommon in some Western countries to subject economic migrants to inferior legal standing on the grounds that their residence in the country is only temporary and their permanent domicile and citizenship is accordingly elsewhere. Turks in Germany and North Africans in France have been dealt with in this manner. The policy begins to prove unworkable, however, once such groups become settled as second or third generations into what increasingly appear to be permanent enclaves of second class legal standing – the historical problem of the ghetto. This raises serious moral and political questions in a democratic state.

The response of extending citizenship to members of ethnic minorities on the

12 See the outstanding review in Donald L. Horowitz, Ethnic Groups in Conflict (Berkeley: University of California Press, 1985), ch. 15.

13 Lustgarten op. cit., p. 97.

same basis as everyone else is the classical liberal solution best exemplified by the American experience. The problem with it from the viewpoint of the ethnic groups concerned is its blindness to the reality that such groups have significant public needs which are different from those of the general population and which raise constitutional or at least legal questions. Shall members of the minority be entitled to practice their culture if it conflicts with existing law? Do they have reasonable grounds to claim legal exemptions if such conflicts occur? Or must they resign themselves to their minority standing in a society dominated by a different culture? The problem with the liberal solution is that it presupposes only one public life – the life of the whole political community of the state – and relegates everything else to the world of private individuals and groups. Yet, as I have argued, it is usually difficult for ethnic minorities to live their collective lives within a framework of wholly private association.

From his examination of the Law Reports of England and the United States L. S. Lustgarten has raised some questions that arise in liberal-individualist legal systems which come into contact with secondary ethnicity.[14] Are ethnic minorities entitled to political representation, government employment, or places in educational institutions in proportion to their share of the relevant population? Should ballot papers be printed in minority languages? Should ethnic minorities be beneficiaries of affirmative action programmes in education and employment? Should linguistic minorities be granted licenses to broadcast on radio and television in their own languages. Should religious minorities be entitled to establish and administer their own schools? Should they have a claim on state educational funds? Should local educational authorities be required to provide bilingual education for linguistic minorities? Should the personal law of Moslems be legally recognized by the state? Should polygamy be lawful for adherents of religions which tolerate it? Should a Nigerian immigrant mother who made incisions on the cheeks of her two sons in a ceremony of tribal induction be charged with assault? Must Sikh males who are required by their religion to wear beards be denied employment regulated by hygiene requirements which oblige workers to be clean shaven? Should teenage Moslem girls attending mixed, coeducational schools be entitled to physical education classes without boys? Should a Moslem schoolteacher in a public school have leave to attend a Mosque during school hours on Friday without prejudice to his salary or employment?

Limitations of space thankfully prevent an inquiry into these issues. I can only conclude this section with some general questions the answer to which would influence the answers given to the more specific questions noted above. Should non-Western immigrants in a Western liberal-individualist state be granted whatever legal exemtions and immunities are necessary for them to continue to enjoy their ethnic way of life? If so, what are the limits of such legal accomodation?[15] Lustgarten suggests the following limits: ethnic practices should be accommodated unless they are „wholly impractical" or they result in „severe physical abuse or worse". He cites suttee and female circumcision as examples of the latter. Alternatively, should they be expected to forbear from their ethnic ways whenever they conflict with established legal practice. Since Western governments have admitted such immigrants in substantial

14 Lustgarten ibid., pp. 98–101.
15 Ibid., p. 101.

numbers one might argue that this commits them to a fair degree of legal toleration of their ethnic way of life. On the other hand, since these immigrants have elected to immigrate, one might assume on the contrary that they should be prepared to suspend their culture in conflicting situations out of respect for the laws and practices of their new political home and its majority culture. Other things remaining equal, left wing parties in Western countries tend to take the former view, right wing the latter.

Lustgarten concludes his analysis by noting that the „methodological individualism" of American and British law provokes these questions by tending generally to „deprecate" ethnic identity and loyalty „unless centered upon the state". In liberal theory dating to Hobbes there cannot be more than one public. Yet ethnicity cannot thrive on a doctrine which consigns it to the private world.

Constitution-mongering in multi-ethnic states

Can ethnic pluralism coexist with a united polity? Can a constitutional democracy accommodate more than one public? Can it extend constitutional and legal recognition beyond individuals or the public at large to ethnic minorities? The recent constitutional experience of one Western country might provide at least an intimation of an answer. Canada in the past two decades has been undergoing what can only be called a constitutional revolution a significant part of which is a response to both primary and secondary ethnicity. [16]

The Canadian constitution since its origins in 1867 has made provision for the existence of two founding peoples: the English majority and the French minority. The device of federalism enables francophone Canadians concentrated in Quebec to possess their own provincial government. They have also been able to excercise strong influence historically through the federal electoral and party systems to secure their position alongside the English-speaking majority at the centre of the Canadian state. The high court – at first the Judicial Committee of the Privy Council in Britain and since 1949 the Supreme Court of Canada – has also served as a bulwark of Francophone rights and autonomies. Although there have been moments of real uncertainty and even crisis – as in the late 1970s when the Government of Quebec threatened to separate from the rest of Canada – institutions such as these have enabled French-Canadians to preserve and promote their way of life for well over a century within the larger framework of a Canadian state.

The Canadian constitutional tradition has also been responding more recently to secondary ethnicity fostered by a shift of immigration away from Europe and towards various parts of the non-Western world. Since the 1960s Canadian Governments have developed policies of multiculturalism to accommodate immigrant communities including newer and more visible racial minorities. During the same period the aboriginal peoples have awakened politically and now form another distictive strand of Canada's multi-cultural fabric. Although they refer to themselves as „first nations" they are excluded constitutionally from the traditional conception of the two founding peoples They are jostling for constitutional status and rights along with every other secondary

16 For an unrivalled overview see Alan C. Cairns, Constitution, Government and Society in Canada ed. by Douglas E. Williams (Toronto: McClelland and Stewart, 1988)

and tertiary ethnic group. However, they do have treaty and other historically recognized rights and claims connected to land which sets them apart from such groups constitutionally and legally.

Canadian politicians speak warmly of Canada as a „community of communities" which they like to contrast with the „melting pot" of the United States. The idea can give rise to noble political rhetoric, such as the following statement made by a Canadian Prime Minister in 1961: „Canada is a garden . . . into which has been transplanted the hardiest and brightest flowers of many lands, each retaining in its new environment the best of the qualities for which it was loved and prized in its native lands".[17] This is a rhetoric which obviously is receptive and encouraging to ethnicity.

In 1982 a new constitution act was adopted which contains a Charter of Rights and Freedoms. It is a major constitutional innovation on the American model and marks a radical although not complete and therefore ambiguous departure from the previous tradition of parliamentary sovereignty based on the British model. The Charter goes well beyond the American practice of rights based jurisprudence. It makes provision not only for traditional civil and political liberties but also for multiculturalism, minority language education rights, and native people's rights. A very significant „equality rights" section provides every individual Canadian with „the right to equal protection and equal benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability". Moreover, the same section „does not preclude any law program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability".[18] Another section reads as follows: „This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians."[19] And a further section acknowledges the traditional treaty or other rights of aboriginal peoples.[20] This is clearly the constitutional language of ethnic minority enfranchisement.

The Canadian constitution today is more than ever a political and legal arena – some would say battleground – of conflicts among numerous and assorted groups over legal rights and status. Canadian elected and appointed officials endlessly interact in various forums from the highest levels of the state to the lowest with almost countless representatives of the underlying multi-ethnic society. Today such conflicts are not only between federal and provincial governments and the primary language groups but also among the aboriginal peoples, various secondary immigrant groups, and beyond that women's and handicapped groups and even gays and lesbians who see the Charter as a constitutional vehicle – perhaps even weapon – for promoting their ways or ideologies of life. Anyone who surveys the Canadian political scene today cannot fail to be struck by the quantity of constitutionally inspired politics. Just as there is little if any philosophical coherence in the Canadian Charter of Rights and Freedoms – so also is there little cohesiveness in the politics it has fostered.

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17 Quoted by The Charter of Rights and Freedoms: A Guide for Canadians (Ottawa: Minister of Supply and Services, 1982), p. 29.

18 Constitution Act, 1982, section 15 (emphasis added).

19 Ibid., section 27.

20 Ibid., section 25

But arguably this cacophonous process is one way of governing a geographically far flung, diverse, politically and legally mobilized multi-ethnic society with civility and toleration and without recourse to domination devices, assimilationist measures or other instruments of anticonstitutionalism.[21] Canada oppears to be moving as rapidly as any Western country in the direction of a new kind of state in which there is a high degree of constitutional and legal accommodation of ethnicity. It is driven by an official ideology of multiculturalism and the claims of non-European immigrant groups and aboriginals. It is also a testimony to the fundamental significance and substance that constitutions and laws can possess in an open polity. They are about as far from mere superstructure as one could imagine.

Jurisprudence and ethnicity

Constitutional and legal theory has traditionally given little attention to ethnicity or indeed to groups in general. Instead, it has focused on individuals. This is particularly true of American and British jurisprudence. Legal personality, liberties, immunities, rights, obligations, privileges and so forth are posessed by persons, whether real or notional---i.e., corporations. On the other hand, there is a minor jursprudential literature which views the body politic as a communitas communitatum in which the group is the „right–and–duty bearing unit"[22] This idea brings to mind Medieval Europe before the modern Leviathan smashed the numerous intermediate authorities which mediated between the individual and the state. I do not wish to imply that this old jurisprudence is directly relevant to the mobilized, rights-based multi-ethnic constitutionalism of the present day. If we are to understand the contemporary multi-ethnic state jurisprudentially, however, we have to learn to think in terms of the constitutional and legal status of intermediate groups.

What does the terminology of ethnicity look like from a jurisprudential perspective? A way to address this question is by thinking of constitutions and laws as one set of norms ––the state––which intersect another set––multi–ethinc society. The intersection creates a normative conflict which in a constitutional state needs to be resolved peacefully and in a way that enables both the authority of the state and the public life of the group to continue. Politics is of course one very important means of attempting to resolve the conflict. Another device, however, is law. The two are entangled, of course, and the accommodation process may take the form of constitutional politics as in Canada.

The intersection of the constitutional state and the multiethnic society is marked at least in the English language by a distinctive syntax. Words which belong to the vocabularies of law and morals are used at the intersection as nouns or verbs: e.g., autonomies, entitlements, liberties, equality, justice, rights, privileges, discrimination, accommodation and so forth. This indicates that the issues at stake are fundamentally

21 See the insightful analysis in Alan C. Cairns, „The Canadian Constitutional Experiment", op. cit., pp. 229–256.

22 F. W. Maitland, „Moral Personality and Legal Personality", reprinted in David Nicholls, The Pluralist State (London: Macmillan, 1975), Appendix C. Also see David Nicholls, Three Varieties of Pluralism (London: Macmillan, 1974) and Otto Gierke, Political Theories of the Middle Age, trans. by F. W. Maitland (Cambridge: Cambridge University Press, 1987).

moral and legal. Words belonging to ethnic terminology are used as adjectives or adverbs to modify these fundamental categories: e.g., cultural autonomy, language rights, racial equality, racial discrimination, ethnically affirmative action, and so on. Ethnicity therefore operates linguistically as a qualifier on legal or moral issues. The issues pertain not to individuals as such or to the state as a whole but rather to a particular kind of collectivity within the larger overall framework of the state. This in turn suggests that the primary question is the rightful public place of ethnicity within the state: which ethnic norms are lawful and constitutional, and which–if any––are not?

In this syntax the state or rather the political goods of the state––security, order, justice, liberty, equality––take precendence over ethnicity, but in such a way as to accommodate rather than to deny ethnic norms. In other words, it indicates a state which is civil and tolerant as regards ethnic groups. Political pluralism, ethnic accommodation, minorities rights, affirmative action, and the like capture the character of such a multi-ethnic state. The various sections of the Canadian Charter of Rights and Freedoms which deal with ethnicity may be a case in point. In such a state the vocabulary of ethnicity has penetrated moral and legal discourse as positively value-loaded terminology. This clearly is the oposite of the discourse of ethnic domination or assimilation which denies legitimacy to ethnicity and uses law to hobble or undermine it.

Ethnicity is not unregulated or beyond the reach of law in a pluralistic state. It is not a world of ethnic anarchy. The state acknowledges the ethnos but at the same time subjects it to constitutional or legal rules––the ethnos is within the state and not outside. Regulation must always be rooted in consent, however. Government cannot interfere arbitrarily in the life of the ethnos or seek to confine it beyond that which is generally necessary to protect the state and is consistent with the rule of law. For example, state intervention in the ethnos could only be justified by superior constitutional values––such as protection of the public against terrorism or an apprehended insurrection. The life of an ethnos is not an absolute value. But an ethnically accomodating state will always have very good reasons before it seeks to impose its will. Likewise, the ethnos must always forbear from exessive acts of hubris which threaten to undermine the civil condition.

The brief foregoing analysis has some implications for the *Intercocta Glossary of Concepts and Terms used in Ethnicity Research.* The Glossary specifies that politics is among the „contents" of ethnicity and that ethnic actors and administrative officials are among the „levels of intentionality." However, it makes no specific mention of either constitutions or law––which are not identical to politics or administration.[23] Presumably this is owing to the sematic extension of „politics" which includes „constitution" an „law". However, I believe that specification is necessary to increase the analytical discrimination of the intercocta model. The above comments are offered as a suggestion of some constitutional and legal concepts which could be added to the glossary to begin to explore this sub-field of ethnic terminology.

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23 Fred W. Riggs, ed. Ethnicity: Intercocta Glossary, International Conceptual Encyclopedia for the Social Sciences, Vol. 1 (Hawaii: International Social Science Council, 1985), pp. 6–7.