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LL.B THESIS

**THE ROLE OF NGOS IN THE PROMOTION AND
PROTECTION OF MINORITY RIGHTS**

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Declaration

I here by declare that this paper is my original work and I take full responsibility for any failure to observe the conventional rules of citation.

Name _____

Signature _____

Acknowledgement

First of all, I would like to praise the Almighty God, who empowered me for the successful accomplishment of this paper.

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Introduction

The protection of human rights on a universal and regional basis have developed exponentially since the end of the second world war. This protection of human rights is a matter for international law; it is not left only to regional laws.

Among those human rights, minority right is one of the rights granted for those concerned parties. These rights are laid down under many treaties and conventions. Now a day this minority rights are a recent issues and also there is no agreed meaning of the term minority.

Since these issues are recent, they need to be promoted and protected by governments and nongovernmental organization. To this effect, the study is divided in to four chapters. The first Chapter consists of background of the study, objectives of the study, general objective, specific objective, statement of the problem, methodology of the study, Limitation of the research, significance of the study, etc

The second chapter mainly deals with the concept of promotion and protection of minority rights. In doing so the sub topics are devoted to discuss the definition of minorities, international protection of minority rights by way of international treaties and constitutional recognition of minorities.

The third chapter deals with the role of nongovernmental organizations in the promotion and protection of minority rights with sub topics, definition of NGOs, typology of NGOs, the role of NGOs, recognition of NGOs.

The fourth chapter of the study deals with the Ethiopian experience with sub topics dealing with history of NGOS in Ethiopia, their legal mandates and minority rights under constitution of Ethiopia.

Finally conclusion and recommendation drawn based on the finding of the research will be presented.

CHAPTER ONE

1.1 Background of the Study

Many things should be done to protect minority rights, because it requires not only the most commitment of governments but also non-governmental organizations. The major concern of this study lies on the role of NGO's in to promoting and protecting minority rights.

1.2 Objectives of the Study

Minorities need to be protected because they are discriminated in many ways and are not treated as good as the majority. That is they are denied their rights, so that the need of protection will be considered as an important issue. The objective of the study is to consideration of the above problems and its impacts on our country's minority right development. Hence, the research has the following general and specific objectives.

1.2.1 General Objective

The general objective of the research is to assess the role of NGO's in the promotion and protection of minority rights.

1.2.2 Specific Objective

As any research it consists of the following important objectives that could be explained in the research

- To assess the contributions of NGO's for the promotion and protection of minority rights and to show whether or not the NGO's has assisted or contributed to words the protection of minority right or not.
- To see the relationship of government and NGO's in protection of minority rights.
- To identify the legal and practical problems to NGO's encounters in view of the minority rights

1.3 Statement of the Problem

Since Ethiopia is among third world countries, most of the population are suffering from poverty. The task must not be left only for governments rather it needs the cooperation of non-governmental organizations. Taking this in to account this study tries to show what happened a year ago due to the Proclamation issued by House of peoples' Representatives of Ethiopia. According to Article 2(2) of the Charities and societies Proclamation No 621/2009, Charities and societies whose members are Ethiopians and who do only receive less than 10% their income from foreign sources are deemed to be Ethiopian NGOS. Those who receive more than 10% from foreign sources are not considered and are not Ethiopian NGOS and can not engage in any political affairs such as teaching of minority rights. When the facts are seen from the practical point of our country if 90% of the income is going to be derived (funded) from local base, could they work effectively to achieve their objectives?

1.4 Methodology of the Study

The research employs different methods, First of all, information will be collected from related laws, different sources such as literatures, different documents, from human rights article.

1.5 Limitation of the Research

Lack of literature on the role of NGO's is the major limitation of this research paper. On top of this, the absence of cooperation of persons working in some NGO's and other related organizations to explain the laws and problems of the NGO's has also been taken as a limitation.

1.6 Significance of the Study

The research will have many significance at the end. This includes the improvement of minority rights in particular and the whole society in general. Besides the study will also indicate where the problem lies and how to protect the rights especially and the minorities, this also lead to show how the different development projects contribute for minority rights. More over, it will inform those concerned authorities, the minority themselves and some segment of the society to take action that helps for a better promotion and protection of minority rights.

CHAPTER TWO

1. The concept of promotion and protection of minority rights

Internationally the issues of minorities have become a top agenda of all countries. There are broad areas of concern related to minority globally. These are, protecting the existence of minority including through protection of the physical integrity of its people and the prevention of genocide, protecting and promoting cultural and social identity, and the right of national, ethnic, religious or linguistic groups to affirm and protect their collective identity and to reject forced assimilation, ensuring effective non-discrimination and equality, including ending structural or systematic discrimination and also ensuring effective participation of members of minorities in public life, specially with regard to decisions that affect them. Even if, the issue of minorities have become a big concern there are still questions need to be answered like rationale for protection, who are considered to be minority, as to what does the protection goes? These questions are deemed to be deal under this chapter.

1.2 Minority defined

Minority is an ambiguous term, potentially definable through an endless combination of interacting variables like religion, language, ethnicity, race, culture, physical characteristics and a variety of other traits.¹

The permanent court of international justice in the Greco – Bulgarian communities’ case stated the meaning of minority as following:-

“ By tradition - - - - - “ the community “ is a group of persons living in a given country or locality having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions in sentiment of solidarity of with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and up bringing of their children in accordance with the spirit and tradition of their race and rendering mutual assistance to each other”²

The meaning given by the court of international justice, which the researcher believes have broad preservation attributes of a group that characterized of race, religion, language and tradition which shows continuity.

Even if it is challenged and criticized on number of grounds, definition formulated by special rapportor of the sub-commission on prevention of discrimination and protection of Minorities Francesco Capotorti, define “minority” as a

“A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members, being nationals of the state possess Ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditional religion or language”³

The main issue which lead to criticizing Capotorti definition is that of the position of non-nationals within the state-Non-national could form a significant proportion of a state’s population, and although the main trust of the development right of nationals within the state, the rights of the non-national, as individuals, are also increasingly becoming a concern of human rights law.⁴ Indeed, as Lillich correctly pointed out.

“The question of aliens is inextricably linked to the contemporary international human rights law movement, because it passes a clear test of relevance and enforceability of international human rights which are developed since World War II”⁵

To Javid Rehman, an author of ‘The Weakness in the International Protection of Minority Right’ Capotorti’s definition is at issue because of the above reason, which Capotorti’s definition of minority executes non-national including migrant workers, refugees and stateless persons, who are now a big concern international human rights law.

Still this definition is accepted internationally, which is pointed out in Article 27 of the International Covenant on Civil and Political Rights.

The other definition of minority is given by Mr Jules Descheres, formerly a Canadian member of the United Nations Sub-Commission on the Prevention of discrimination and Protection of Minority, defines it as:-

“A group of Citizens of a state, constituting a numeral minority and in a non-dominant position in that state endowed with Ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.”⁶

This definition is not that much differs from that of Capotorti, it only provides minor refinements, though Capotorti definition is criticized but no one comes with different views.

The dictionary meaning of the term minority is the condition or fact of being small, in fierier or subordinate.⁷ If we take this meaning it will led us to conclude almost all would be taken as minority. A memorandum prepared by the Secretary-General in 1950, entitled definition and classification of minorities contains the following statement:-

“ - - - the term ‘minority’ can not for practical purposes be defined simply by interpreting the word in its literal sense. If this were the cause, nearly all the communities existing within a state would be styled minorities, including families, social classes, cultural groups, speakers of dialect, etc. Such definition would be useless - - - “

Minority may have originated in any of the following ways:-

- A) It may formerly have constituted an independent nation with its own state (or more or less independent tribal organization).
- B) It may formerly have been part of a nation living under its own state, which was later segregated from its Jurisdiction and annexed to another state or
- C) It may have been, or may still be a regional or scattered group which although bound to the predominant group by certain feelings of solidarity, has not reached even a minimum degree of real assimilation with the pre-dominant group.⁸

Since no definition of minority has been widely accepted by international lawyers but from those who try to propose a definition. We can say that the term minority particular ethnic, racial, religious or linguistic attribute.⁹ All these can be sufficient for the case at hand

1.3 International Protection of Minority Rights

The protection of minority rights internationally has become a big issue lately. There fore requires positive action to safe guard the rights of the minority group, which is inspired by the principle of equal treatment of all people requiring positive action.¹⁰

For United Nation bodies, protection of minorities mean the taking or recommending of concrete actions, taking special measures going beyond the normal standard of human rights measures.¹¹

The commenting on one draft article which has preceded Article 27 of the CCPR the sub-commission on prevention of Discrimination and protection of minority has defined the notation of protection of minority as follows:-

“Protection of minorities is the protection of non-dominant group which, while wishing in general for equality of treatment in order to preserve basic whish for measure of differential treatment in order to preserve basic characteristics which they possess and which distinguish tem from the majority of the population. The protection applies any way to individuals in the same group, wishing for the same protection. It follows that differential treatment of such groups or of individuals belonging to such groups is justified when it is exercised in the interest of their contentment and the welfare of the community as a whole - - ‘¹²

In order to enable the United Nation take effective measures for the protection of racial, religious or linguistic minorities,¹³ the sub-commission was requested to make through study-first session in the report to the commission on human right:-

“ - - - The protection applies equally to individuals belonging to such groups and wishing the same protection, - - - In order to qualify for protection a minority must owe undivided allegiance to the government of the state in which it lives. Its members must also be nationals of the state - -
_ ‘¹⁴

As it is well described above protection of Minority is kind of protection which needs taking special measures beyond the ordinary standard, needs positive action towards safe guarding the rights of minority, wishes a general equality of treatment with the majority, with the need of same protection.

The notion of protection of minorities can be inferred from international treaties and constitutional recognitions. The next sub-topic will try to show some of international treaties after the First World War and since the second World War. And also some Constitutional recognition of protection of minority rights in some different states including the Federal Democratic Republic of Ethiopia Constitution.

1.31 International Treaties

After the first world war many efforts were made to establish an effective system of protection of minorities at the international level with view to formulate different no solutions to the problem on the basis of the right of minorities to the preservation of their culture and their culture and their ethnic character, to equal before the laws and to freedom of worship and religion.¹⁵

There were drafts submitted to covenant league of nations while it was drawn up. From the drafts submitted was, by Switzerland advocated inter alias, affirmation at the international level of the principle of equality before the law, freedom of conscience and the right of minorities to use their own language.¹⁶ The other one was draft submitted by Woodrow Wilson, president of United States, included a clause in accordance with which new states, as condition the recognition of their racial or national minorities, it reads as follows:-

“ The League of Nations shall require all new states to bind themselves as condition precedent to their recognition as independent or autonomous states, to accord to all racial or national minorities within their several Jurisdiction exactly the same treatment and security, both in law and in fact that accorded the racial or national majority of their people.”¹⁷

The third draft covenant submitted again by President Wilson was a little bit expanded by adding a stipulation under which all states needs admission to the League of Nations would bind themselves to accord equal treatment to their minorities. The text of article VI of the draft as revised was:-

“ - - - - the executive council shall exact of all states seeking admission to the league of nation the promise, to accord to all racial or national minorities within their several Jurisdictions exactly the same treatment and security, both in law and in fact - - - ”¹⁸

The draft stated above was some how rejected by the commission, by a very large majority. The suggestion was that the principal of religious toleration and racial equality should be included in the covenant of the league it self” was found impossible” or undesirable.¹⁹

One have to take in to consideration that the above drafts were not the only treaties applied or brought before the commission, it is because the three drafts may be enough to show some enlightments before talking about League of Nation treaties and failure of the league.

The minority regime took four different forms.²⁰

1. The five minorities treaties concluded between 1919-1920

*** Poland**

The treaty between principal allied and Associated powers and Poland Versailles, 28 June 1919

*** Czechoslovakia**

The treaty between principal Allied and Associated powers and Czechoslovakia, St-Germain-en-Laye, 16 September 1919

*** Romania**

The treaty between principal allied and Associated powers and Romania, Paris, 9 December 1919

*** Greece**

The treaty between principal Allied and Associated powers and Greece sever, 10 August, 1920

2. Four Special chapters of the peace treaties of 1929-23 imposed on the Vanquished state

*** Austria**

The treaty between principal Allied and Associated powers and Austria, st German en-laye, 10 September, 1919 Articles 62-69.

*** Bulgaria**

The treaty between principal allied and Associated powers and Bulgaria, Newillysur –seine, 27 November, 1919 Articles 49-57

*** Turkey**

Treaty of peace between Britain, France, Italy, Japan, Greece, Romania, the Serbo-Croat Slovene state and Turkey, Lausanne, 24 July 1923, Articles 37-45

3. Four Subsequent treaties

❖ The Polish Dazing convention of 9 November 1920

- ❖ The agreement between Sweden and Finland concerning the population of the Åland Islands placed on record and approved by resolution of the council of League of Nations on 27 June, 1921.
- ❖ The German-Polish convention relating to Upper Silesia of 15 May, 1922
- ❖ The convention of 8 May 1924 concerning the territory of Memel- between Allied and Associated powers and Lithuania.

4. Five unilateral declarations signed by various states between 1921-1932 upon their admission to the League of Nations of which the council of the League of Nations took note in ad hoc resolutions. The states that made such declarations were

- ❖ Albania 2 October, 1921
- ❖ Lithuania 12 May 1922 (extended to Memel district 29 September 1924)
- ❖ Latvia 7 July 1923
- ❖ Estonia 17 September 1923
- ❖ Iraq 30 May 1932

The framework upon which the League system was established carried internal as well as international obligations –Internally, the states agreed to irrevocably entrench the provisions relating to minorities in their constitutional set-up. The external obligation manifested themselves in guarantees in so far as they related to members of racial, religious and linguistic minorities and was designated as obligation of international concern.²¹

The League minority treaty system worked well for some years, for some minorities on some issues, though it failed to achieve overall success. Javaid Rehman who is the author of “The Weakness in the International Protection of Minority Rights” has included the suggestion of an author named Claude, which says, “The system was not executed in good faith it was never given a trial, since none of the interested parties, neither minority states nor minorities nor kin states nor neutral powers entered in to the great experiment with the spirit and attitude which were essential to its success.”²²

Again Javaid Rehman in the same book on the same page has put his opinion, “The ultimate outcome and the failure of the League system needs to be judged in the context of the prevailing world order with all its inequalities and injustice, but admitted that there was at least an attempt, be it limited in vision and ultimately unsuccessful, was made to elevate the issue of minority protection in the international arena.”²³

Many Authors have write about the failure of the league, but all agree in some how the league have played a great role in the promotion of the notion of protection of minorities like for example in the book of New Direction in Human Rights the authors have mention that the treaty was a significant one, they put their opinion as it proceed. Despite the failure of the league system, the principle of international supervision of treaty obligations relating to minority rights was significant.’’²⁴

An author named Egon Jehwelb, Human Rights and the International Communities- have said, as regard to the league of nation,

“ Whether or not there were a failure, whether or not some of them are still in effect, their significance for us for future generations lies in the fact, that they were an import ad factor in the process of eroding the concept of absolute state sovereignty in the field of human rights’’²⁵

For Jay A. Sigler, a writer of Minority Rights, said in his book” - - - the collapse of the international system of minority rights protections under the league of nations come Swiftly,²⁶ the failure of the league of nations minority system was not a failure of the concept of minority rights, Rather it was miss application of minority rights concept.²⁷

The time of the first World War can be taken as a post action in relate their to today’s notion of protection of minorities. As many authors give suggestion in their book the League of Nations was a good instance in promoting the idea of protection of minorities and also was starting point for the present time, to take in to consideration the idea of protecting minorities as a big agenda.

In the modern phase of international law there have been changes in attitudes towards minority protection, from inchoate²⁸ protection of religious minority to interventionist attempts, to protect minorities in central and Ester Europe, under the humanitarian intervention, to a system of limited protection under the aegis of the league of nations to amore generalized model of human rights focusing up on the individual.²⁹

During World War II some demands were renewed for a new international standard of human rights, including a universal standard for the protection of minority groups.³⁰

The fact that the behavior of the commission had not been negative as to the Yugoslavia draft in 1978 declaration was a sign that the commission had changed its attitude towards minority protection.³¹

The declaration of 1992, in its article, calls on states to protect the existence and identity of minorities and to encourage conditions for the enjoyment of that identity.³² The Article further provides, that the existence and the national or ethnic, cultural, religious and linguistic identity of minorities shall be protected by states within their territories, and that states shall encourage conditions for promotion of that identity.

Article 2, of the same declaration reflects the rights of minorities as it is stated next,

“Persons belonging to notional or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination. Persons belonging to minorities have the right to participate in cultural, religious, social, economic and public life.”

Some Jurists in providing commentaries on the declaration have already readily advanced such a proposition. Asbjorn Eide in his report, possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities, notes that the cultural and spiritual dimensions of existence are also fundamental to the declaration. Therefore the identity of minorities is to be protected and conditions for its promotion encouraged. In the past minority groups were some times denied ‘existence’ through policies of forced assimilation or ethnocide. It is now generally recognized - - - that each culture has a dignity as value which must be respected and preserved, to the extent compatible with universal human rights.³³

The 1992 declaration was a significant one because it described the failure of League of Nations. As it is well described above the 1992 declaration was a significant one. There was also a study recommended by the sub commission i.e. the establishment of a working group within the United Nation to promote the implementation of the declaration on the right of persons belonging to minorities in 1993.³⁴ And also 1994³⁵ recommendation of the sub-commission on prevention of

discrimination and protection of minorities - - - 1995 again was a recommended with regard to the study to the establishment.

For the concern of these search, the above mentioned treaties will be enough, but one must take in to consideration that there are treaties and declarations made before and after, which are not included in this search, because the searcher thinks that the selected treaties will suffice for the present case.

1.3.2 Constitutional recognition

Since the idea of protection of minorities have been the big agenda and typical issue many states have recognize the existence of minorities in their constitution and establish their legal status.

Belgium

In Belgium, the constitution recognizes the existence of its national minorities and established cultural councils for the French and Flemish cultural communities.³⁶

Switzerland

In Switzerland, the Federal constitution recognized that the country comprises four original ethnic and linguistic minorities referred to in the constitution as a linguistic groups and the principle of communal autonomy is recognized for each of these minorities.³⁷

Denmark

National minorities in Denmark are officially recognized by governmental declaration.³⁸

Finland

In Finland, according to the constitution the representatives of the sweetish speaking minority are granted local autonomy, the right to taxation, a court system, and the right to use their own language in parliament.³⁹

Canada

While the Canadian chief orginal minority is officially recognized, her smaller national minorities natives Indians and Inuit (Eskimos), enjoy implicit recognition similar to Native Amenricans.⁴⁰

Yugoslavia

In Yugoslavia, the cultural rights of national minorities are recognized in the constitution.⁴¹

Italy

In the Italian valley of Aosta, the French language is on an equal legal footing with Italian, in the province of Bolzano, German, has the same legal status, and in the area corresponding to the former Territory of Trieste, equal treatment between the Italian and Slovenian languages is legally guaranteed.⁴²

Russia

The constitution of the Russia, guarantees to its national minorities the right to preserve and develop their own culture. Also it stipulates that the principle of non discrimination and equality before the law apply to all persons belonging to national minorities in the country.⁴³

Romania

The Romanian constitution recognizes the existence of its national minorities and states that the co-inhabiting nationalities have the right to use their own language before the courts at all stages of the proceedings⁴⁴

Ethiopia

The Ethiopia constitution gives effective protection of minorities under Article 25, which reads as follows:-

All persons are equal before the law and are entitled without and discriminateion to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection with out discrimination on grounds of race, nation, nationality, or other social origin, color, sex, Language, religion, political or other opining, property birth or other status.⁴⁵

States are beginning to not only officially recognize the existence of minorities within their boundaries and provide special measures to protect the civil, political and cultural rights of these minorities, but also to accept it as moral and legal obligations.

Chapter Three

The Role of Non-Governmental Organizations in the Promotion and Protection of Minority Rights

3.1 Definition of Non Governmental Organization (NGO)

Since the non-Governmental organization has often been described as extremely diverse and populated by organizations with hugely varied goals, Structure and motivation, it is not an easily task to find a common definition for the term non-governmental organization.

The Encyclopedia Britannica defines NGO as

“Voluntary group of individuals or organizations, usually not affiliated with any government that is formed to provide service or to advocate a public policy. Although some NGO’s are for profit corporations the vast majority are non profit organizations . . .”¹

NGO’S normally share the following characteristics:-

- ✚ NGO’s are not created to generate personal profit. Although they pay employees and engage in revenue generating activities they do not distribute profit or surplus to members or management.
- ✚ NGOs are voluntary this means that they are formed voluntarily and that there is usually an element of voluntary participation in the organization.
- ✚ NGOs are distinguished from informal or ad hoc groups by having some degree of formal or instrumental existence. Usually NGOs have formal statues or other governing document, setting out their mission, objectives and scope. They are accountable to their members and donors.
- ✚ NGOs are independent, in particular of government and other public authorities and political parties or commercial organizations.²

In Canada NGO are considered as “. . . not for profit corporations or corporations with out share capital”³ and also the Japans have long tradition in activities of NGOs the term is still ambiguous and confusing to most people in Japan. Within the Japanese context NGO is often (mistakenly or intentionally) used as organizations which deal with problem of development, human rights, environment, conflict and wars.⁴

Generally NGOs are not self-serving in aims and related values. Their aim is or concerns is related to the well being of people, specific group of people or society as a whole. So that we may conclude that NGOs are not based in government and also are not created to earn profit. The above mentioned definition of the term NGOs have made it clear that NGOs are different from other organizations in their meaning and formation.

3.2 Typology of NGOs

Even if most NGOs are involved in a mix of activities in functional terms NGOs can focus on operational and advocacy activities. Operational NGOs contribute to the delivery of services (such as in the field of welfare) whereas the primary aim of advocacy NGOs is to influence the policies of public authorities and public opinion in general.

3.2.1 Operational NGOs

Operational NGOs can be regarded as NGOs whose primary areas of activity are directed toward the contribution or delivery of development or welfare service including emergency relief and environmental protection and management. Reflecting the range of issues and interest that have emerged in development and welfare and in relation to the environment. Operational NGOs display a range of programs, organizational structures, operational orientations and areas of operation both program related and geographical operational NGOs exist at the local or community level, district and national levels, and regional and international levels.⁵

3.2.2 Advocacy NGOs

Advocacy NGOs can be regarded as NGOs whose primary orientation is toward the advocacy of policies or actions that address specific concerns, points of view, or interests. In the context of development, advocacy NGOs works to influence the policies of governments and the public. Advocacy NGOs more often exist at national and international levels. They exist to serve as a voice that they consider otherwise would not be heard in social, economic and political processes.⁶

The fact that there is differentiation between operational and advocacy NGOs, it may not be possible to characterize an NGOs entirely as operational and advocacy. It is because, most NGOs are involved in mixed activities.

These NGOs also can be international or national (local) NGOs, NGOs established in the country either by national or non- national are called local (national) NGOs. While international NGOs are those who have their head offices abroad and obtain support from those offices. It should be noticed that there may be many types and categories of NGOs other than mentioned in this research.

3.3 The Role of NGOs

It is widely accepted that without NGOs the United Nations human rights machinery would not be able to function. Over the years NGOs have come to be recognized as important participants in their own right.⁷

The inclusion in the United Nation charter of the provision concerning the consultative status of NGOs the United Nation acknowledged the growing importance of international activities conducted outside the classical framework of the state and its government. Then International NGOs availed themselves effectively of their newly acquired rights of representation.⁸ During the period of international codification of human rights, NGOs participated actively in the preparation of the drafting of the universal declaration of Human Right.

Most Human Rights treaty bodies did not formally provide inputs regarding NGOs. However, NGOs have in practice always played a role. In October 1992, the chair person of the United Nations human rights treaty bodies formalized this involvement by jointly urging both national and international NGOs to provide information on a systematic and timely basis.⁹

Furthermore in Vienna declaration and program of action, the recognition of the role of NGOs was included. It reads as: "The world conference on human right recognized the important role of NGOs in the promotion of all human rights and in humanization activities at national, regional and international levels. The world conference on human rights appreciate their contribution to increasing public awareness of human rights issues to conduct of education, training and research in this field, and the to promotion and protection of all human right and fundamental freedoms. While recognizing that the primary responsibility for standard setting lies with states. The conference also appreciates the contribution of NGOs. NGOs and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the universal declaration of human rights, and the protection of the national law. NGOs should be

free to carry out their human rights activities without interference within the framework of national law and the universal declaration of human rights.¹⁰

The promotion and the defense of fundamental human rights can indeed be termed a basic concern of NGOs.

At the same time NGOs are recognized and acceptable by the United Nation human rights declarations, and also by other international organs, it must never be forgotten that the responsibility for implementing human rights and the ultimate power in relation to the promotion and protection of human rights rests with governments.

3.4 The Role of NGOs in Promoting Minority Rights

Today the position of minorities in each country is different, with varying histories and perceptions, varying numbers and different social, economic and political opportunities open for minorities. Therefore, it is not easy for international organizations to act effectively and consistently across all states.¹¹

They may help establish important principles addressing the concerns identified above, but the practical implementation will depend on each situation and particularly on the resources which are available.

Many of the principles were established in the United Nation declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities, adopted by the general Assembly in December 1992.¹² Often issues facing minority communities are genuinely not widely known and when known are frequently poorly understood. These need to be expressed if possible in a constructive and non-threatening manner by NGOs locally and internationally.¹³

In some repressive situations NGOs also provide the international community with evidence of how the people within a country are denied their rights and in the absence of democratic space and protection, international NGOs can play a crucial role in ensuring the infringements of United Nations standards are well known. This may play a crucial role in preventing further abuses and in fortifying change from within.¹⁴ NGOs can often reach indigenous and minority communities which would be impossible for governmental bodies.

NGOs only have a moral authority if they are able to listen to the needs of different communities particularly minority communities and respond positively to them. Furthermore, it gives expression to an individual's multiple identity and overtime can help break down rather than reinforce ethnic, religious or linguistic identity as being the only forms of group unity and political expression.¹⁵

There were suggestions in relation to future work of NGO These are:-¹⁶

- I. Make active use of group and individual rights under the international instruments and of the respective procedures. Invite group rights in good governance texts. Underline affirmative action as a necessary means of achieving equality when de facto discrimination persists.
- II. Support the new United Nation working group on minorities. Identify cases where dialogue is called for. Seek technical co-operation projects to the benefit of minorities and indigenous peoples.
- III. Place minority and indigenous rights on agenda of chairmen and reporter meetings.
- IV. Insist on the rule of law, objectively and non-selectivity in all applications of minority and indigenous rights standards, case by case political solutions to minority situations result in continuing discrimination for other groups who may then choose the conflict avenue.
- V. Create and give access to data bases for making available necessary statistics, increasing capacities for verification and early warning, facilitating research, integrating minority and indigenous rights into technical co-operation.
- VI. Take an active part in carrying out at home and abroad the action programs for the decades to combat racism and racial discrimination for the world's indigenous peoples and for human rights.
- VII. Ensure that the Un's declaration on the rights of minorities is effectively implemented in Europe, article 4
 1. National policies and programs shall be planned and implemented with due regard for the legitimate interest of persons belonging to minorities
 2. Programs of co-operation and assistance among states should be planned and implemented with due regard for the legitimate interest of persons belonging to minorities.

The proposal made on the protection of minorities, report to the United Nation human rights sub-commission,¹⁷ provides a wide range of constructive ideas of measure which can be taken at the international level directed at NGOs They include:

- Helping the United Nation to prevent group conflicts especially by raising awareness of potential and existing problems.
- Providing information to treaty bodies on minorities.

The above mentioned ideas and suggestion in relation to the role of NGOs indicate that military is not the only way forward. Issues must be considered and not avoided but when problems and issues are raised practical ways forward should be proposed, the experience of NGOs may be particularly helpful here.

Chapter Four

The Ethiopia Experience

4.1 NGOs in Ethiopia: Historical Context

The first organizations in Ethiopia which can be defined as NGOs were traditional self help systems. They existed in the country for centuries before they started to develop some sort of structure. To day the commonly known self Help systems are Ekub and Edir which is a rotating saving and credit system.

In 1960 both foreign and local NGOs, were established when these self-help groups could no longer suffice to support the needy of the country, The first NGO, as we know them today, that were established in the country were the Ethiopian Red Cross and Swedish save the children. Following this and the famine of 1973 and later of 1984 the number of NGOS, increased and these were mostly international.¹ Later on with the change in government in 1990 a more conducive environment was established further encouraging the growth of NGOs in Ethiopia. This time as their numbers increased more local NGOs flourished, today 90% of NGO, operating in the country are local.²

In 1998 it was reported that around 240 local and international NGOs were registered in Ethiopia. Currently the number has risen above 350.³ Considering this number we can say that the NG O sector in the country as compared with Sudan, Eritrea, Djibouti and Somalia is large. However when compared to other countries in Africa these is small.

The history of NGO in Ethiopia began by providing relief services which lasted for a long time. A further improvement in their development work is the establishment of few advocating NGOs. Despite all these, these, is a requirement for establishment of NGOs in Ethiopia in order to be registered with the government of Ethiopia and operate legally. Both foreign and local NGOs can be established in Ethiopia by registering with the Ethiopia government However; the requirements for registration of each differ slightly.

A) Registration Guide line for foreign (international) NGO

Any foreign NGO which intends to carry out activities, shall produce its written application to the NGO Registration Office at the Ministry of Justice, the office will provide four copies of an application form to be filled by the applicant which is the applying organization, there are also some requirement expected to be produce by such organization.⁴

B) Registration Guideline for local NGOs

Any local NGO, which intends to carry out activities, shall produce its written application to the NGO Registration office at the Ministry of Justice, the same as the foreign NGO; if established in Ethiopia and is led by Ethiopians and operates in more than one region of the country or its donor(s) supports programs found in more than one region, there are some requirement by that given NGO, to be fulfilled.⁵

Even though the registration process seems the same at international NGO and local NGO level, one have to know that there are many requirement which are different from one another when discussing about them in details.

4.2 The Protection of minority rights in the constitution of the federal democratic republic of Ethiopia

The constitution of Ethiopia provides a comprehensive fundamental rights, freedoms and equality.

The constitution of the federal democratic republic of Ethiopia herein after called FDRE constitution recognizes all distinct ethnic groups as a sovereign “nations, nationalities and peoples” defined as “a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identity. When contrasting the policies of previous government, all language and cultures are given equal recognition under the constitution, and each national group has the right to develop and promote its own culture and preserve its own history as stated under Article 29 of the constitution. Uniquely, the constitution provides the ultimate right of secession for a nation, nationality of people, under certain conditions and following a clearly defined process.

The constitution provides detailed provisions for the protection and promotion of human and democratic rights in chapter three, and Article 13 states that “the fundamental rights and freedoms - - - shall be interpreted in a manner conforming to the principles of the universal

declaration of Human Rights, international covenants on human rights and international instruments adopted by Ethiopia.

Article 25 of the FDRE constitution states that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discriminate on grounds of race, nation, nationality, or other social origin, color, sex, language religion, political or other opinion, property, birth or other status.

The constitution guarantees the right to equality in employment under Article 35 Para, 8 Equally the labor proclamation (No, 377/2003)

Which is revised the labor law in 2004, in Article 14, paragraph 1(f) makes it unlawful for an employer to discriminate on the basis of nationalities, religion, political out look “any other conditions”

The criminal code of Ethiopia (Proclamation No 414/2004) establishes equality before the law under article 4, nothing that; “criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, color, sex, language religion, political or other opinion, property birth or other status”.

Under the constitution there is a clear acknowledgement that all groups have a place in Ethiopian society at both the regional and federal level. The constitution to be exemplary in its human rights provisions, and welcomes explicit references to international human rights law. Anti-discrimination provisions established in article 25 provide a valuable constitutional basis for promoting non-discrimination and equality. The official recognition of distinct groups, cultures and languages has been a major success of the current Government and the constitution.

4.3 Role of NGOs in Promoting Minority Rights:

The Case of Ethiopia

Ethiopia is a country with multi-ethnic groups which are more than eighty and as many languages. As it is discussed under the previous chapter minorities are deemed to be a group of persons living in a given country or locality having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions.

Many distinct ethnic groups were not recognized as a sovereign at the time of Provisional Military Administrative Council [PMAC] Government, commonly referred to as the “Derg”.⁶ After then the current government ensured a democratic Ethiopia and relative cultural and political autonomy for its ethnics groups laid down in the constitution.

This was the time where Minorities issues come up to be big concern. History tells us that NGOs were established in Ethiopia around 1960 but these NGOs were not promoting or protecting minority rights as compared to the present time. It is because that currently many NGOs are welcomed to the country and also human rights are warranted these days than before.

NGOs who promote human rights are those who are engaged in advocacy type. In Ethiopia there are many NGOs who are working on ensuring human rights. Since Ethiopia is a country with multi-ethnic nation NGOs who have a role in promoting minority rights are a lot.

Their role is an measurable, means they work along side with the government by promoting minority rights in a way of conflict resolution and prevention, inter- ethnic co-operation, aiding, teaching the society about equality before the law, present those society before the government and also help those ethnic who are going to disappear, building schools, shelter and many development works. For example NGO called Pastoralists Forum Ethiopia, Action Aid Ethiopia, APAP, can be a good example in promoting minority rights and ensuring group survival. These particularly NGOs are not the only NGOs who are working such things but are few among others.

The work of such organizations is extremely valuable, and their continued presence is considered essential to addressing the immediate and long term needs of communities in the given region, and promoting human rights in general and peace and stability in particular.

4.4 Legal Mandate

Under Article 31 of the FDRE Constitution every person has the right to freedom of association for many cause or purpose. Organization formed in violation of appropriate laws, or to illegally subvert the Constitutional order, or which promote such activities are prohibited. These article gives a rights to organizations from engaging in activities which are in violation of appropriate laws.

II. “Ethiopian Residents Charities” or Ethiopian Residents Societies” shall mean those charities or a society that are formed under the laws of Ethiopia and which consists of members who reside in Ethiopia and who receive more than 10% of their funds from foreign sources.⁷

III. “Foreign charities” shall mean those charities that are formed under the laws of foreign countries or which consist of members who are foreign nationals or are controlled by foreign national or receive funds from foreign sources.

Under section two of the proclamation there is establishment of an agency called charities and society’s agency which has powers and function related to charities and societies. This agency is accountable to the Ministry; it is has a board, Director General appointed by the government and the necessary staff.

The proclamation gives definition of “Charity” which reads as follows:

“ A Charity means an institution which is established exclusively for charitable purpose and gives benefit to the public”⁸

The definition is similar to that of definition discussed under chapter two of this paper. Charitable purposes are laid down under Article 14(2) of the proclamation. Among this purposes some of them reads as follows:

- The advancement of human and democratic rights.
- The promotion of equality of nations, nationalities and peoples and that of gender and religion.
- The promotion of the rights of the disabled and children’s rights
- The promotion of conflict resolution or reconciliation
- The promotion of the efficiency of the justice and law enforcement services.

Article 14(5) states that the above mentioned purposes and activities are allowed only for Ethiopian charities and societies.

These charities and societies proclamation also provide formation, licensing and registration of charities and societies which requires many formalities as it is provided under section five from Article 64 up to Article 76. There is also a duty to keep accounting records imposed on those institutions.

The institutions which are listed in the proclamation are also responsible for their wrong doings stated under section ten Article 102 of the proclamation.

The definition of local NGOs under the proclamation differ from other countries under our proclamation local NGO is an organization formed by Ethiopians, generate income from Ethiopia and wholly controlled by Ethiopians. While the other perception of local NGO is organization established in the country either by nationals or non-nationals. The other one is international NGO, which have their head offices abroad and obtain support from those offices while for the charities and societies proclamation such organization shall be formed under the laws of foreign country and consists of members who are foreigners. The former definition is only concerned about the head office being abroad while the latter says that it shall be governed and formed by the laws of foreign countries not that of local laws. When contrasting it with one another the former gives wide range for international NGOs being established with out any struggle only by fulfilling the registration form.

The purpose of charitable organization mentioned formerly shows that the promotion and advancement of human right shall be done by these organizations and they have a great role in promoting human rights in general.

Even if this charities and societies proclamation comes up with some sort of regulation there are criticism and questions in relation to the proclamation.

Amnesty international considers that the enforcement of certain provisions of the proclamation would violate international and regional human rights treaties to which Ethiopia is a party and the law will criminalize human rights activities under taken by Ethiopian Organizations that

receive more than 10% of their funding from abroad and also criminalize human rights activities by foreign NGOs including campaigning for gender equality, children's rights, disabled person's right and conflict resolution.⁹ Amnesty international has urged donor governments including US, the UK and France and international organizations to condemn the new legislation and to closely monitor its impact on human rights organizations operating in the country.¹⁰

A reporter of voice of America, Peter Heinlein have arranged some critics raised by human rights organizations, Ambassadors and answers given by government officials on the date of 13 October 2008.

A group of Ambassadors in Addis Ababa recently warned Ethiopian Prime Minster Meles Zenawi that passage of the charities and societies proclamation could mean the loss of untold of dollars in desperately needed aid.¹¹

The leader of an opposition parliament faction, Bulcha Demeksa said "The government does not like it, that is why the government wants to silence them and I am very sorry about it, I am very hurt about it. I wish I could do something about it, because practically all the NGOs are doing something good for this country."¹²

The Porteous, the UK. Country director of Human Rights Watch it says at the same time, many other countries in Africa have managed to achieve this result criminalizing Human Rights activities, for example, and in fact this law contravenes not only international and regional African treaties on freedom of association and so forth, but it actually violate Ethiopia's obligations under its own Constitutions.¹³

"I am not aware of an NGO law elsewhere that is more restrictive" said Chris Albim. Lackay, seinior researcher in Human Rights Watch Africa division. "It will render the activities of most international and local human rights organization illegal."¹⁴

The Ethiopian government has defended those critics by stating the aim of the proclamation. Ato Meles Tilahun, a whip in parliament, has said "the law is needed to create conductive environment for NGOs and provide a separate legal framework for them. It does mean to shut them down."¹⁵

A Senior Advisor to the Prime Minister, Bereket Simon, says NGOs will still be welcome to help to fight poverty. But he says the bill is designed to preventing foreign interference in the country's political affairs. "We need foreign NGOs to participate in poverty alleviation programs and to participate in development works, but we definitely believe the political realm must be left for Ethiopians. That is the prerogative of Ethiopians". Furthermore he says NGOs who stays out of Ethiopians internal affairs should have nothing to fear. "It is not repressive, because this is a matter that is between Ethiopia and foreigners so foreigners have their domain, we have our domain as sovereign state which runs Ethiopia, we are designing our own law, and any foreigner who is ready to work in Ethiopia should come and see the law, and if it feels comfortable with the law it can continue to work. If they do not feel comfortable, then we are not going to force them to work here."¹⁶

The Ethiopian government also claims that the charities and societies law addresses perceived inadequacies in the existing legal regime, promotes financial transparency and accountability and provides "proper" administration of civil society. But it goes far beyond what should be necessary to legalize NGO standards.¹⁷

The Ethiopian government has mentioned other NGO laws in its defense which are:-

- In the USA, tax-exempt NGOs can lobby but "may not attempt to influence legislation as a substantial part of their activities and may not participate in any campaign activity for or against political candidates"
- Russia's 2006 NGO law means the government can decline to register branches of foreign organizations where their "goals and objectives create a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage and national interests of the Russian federation"
- In 2004 Zimbabwe passed a law banning domestic groups working on human rights and governance from receiving foreign funding, including Zimbabweans abroad.
- In the UK, foreign NGOs must register under one of six categories:- Prevention or relief of poverty, advancement of education, religion, health or saving lives, citizenship and community development, human rights, conflict resolution or reconciliation, and lobby for political or legal change only if it would further one of these goals.¹⁸

The above laws are mentioned that the Ethiopian government is not alone in coming under fire for its NGO law.

Conclusion

Manifesting an individual's or entities right first needs the entities claim even though there exists no definition of minorities that the internal law recognizes, there are some definitions that were attempted. As such we can consider F.C. CAPTORTI's definition which comply to article 27 of ICCPR. This piece of paper work tries to trace and adopt definitions like that of the stated and similar definitions. While doing so, we will try to reach a milestone point and give answers to who are minorities in accordance to the international law.

Protecting these minorities can mean or include their well-being physical existence, providing them their right to self governance as well as letting them participate on decision making processes which are carried out at the government level.

As the government being the main institution to promote and protect minorities NGOs along side work with the government. The role of these organizations can be solely measured by there taking part of the designing and drafting of universal declarations, provisions that are made international on this issue and creating and maximizing public awareness on this matter.

It is often noticed that NGOs have the capability to reach indigenous and minority communities which are almost impossible for governmental bodies. They also give inputs for treaty and law making bodies about minorities

As all NGOs are guided by the law, NGOs in Ethiopia adhere to it. But the newly written code of NGOs in Ethiopia made many to believe that it has the nature of repressiveness. While on the other hand the government gave emphasis to it saying it grants a greater degree of openness and financial integrity on NGOs.

The fact that the newly legislated law restricts organizations whose main allocated tasks are not of the type like promoting equality of nations and nationalities have made organizations like the International red cross (ICRC) to be off the list of charitable organizations in Ethiopia. This brings unimaginable loss to the country than it could bring elsewhere. Law groups such as the Human rights watch and Amnesty International are banned from their human rights related work in Ethiopia.

It is agreed upon by many NGOs that some kind of regulation was needed despite with some reservation on the strictness of the law. But with the current nature of the law, it is imminent rather being seen currently that it has brought the weakening and immense feeble of the Ethiopian civil society. Effect on aid operation, creating fear, distrust and potentially weakening innovation are some of the bad cause of this law.

On contrary from international mechanisms to stop donations from foreigners to political parties, the Ethiopian law prohibits any funding from abroad but 10%. It is very difficult to achieve the role of NGO'S because of the current situation in Ethiopia is highly need a hand of NGO'S; the reason to this is there is no stable political system and no mechanism to gain 90% of fund from the domestic source. This does not mean that all are derogated rather there are still surviving NGO'S that they are still working their job. But, we have to question their future existence.

This will heavily affect human rights work as well as works to ensure basic rights for women, minorities, children and the disabled under the cover of the propaganda that it will avoid foreign interference on domestic issues.

As a final legal matter, the new law violates international agreements such as the International covenants for civil and political rights that discomply the restriction of the rights to free association like that of the NGOs despite the fact that Ethiopia is one of the signees of these agreements.

Recommendation

✚ The Federal Government

Should let NGOs to carry out and do there human rights activities without any barrier in accordance to the frame work that is set at a national level as well as on universal declaration of human rights. And also should appreciate and encourage works that are being done on minority communities as they are being represented.

✚ Donor governments and international organizations

Are recommended to denounce and criticize the newly addressed legislation and thoroughly understand its vast impact on human rights organizations that are running in the country.

✚ The International community

As Ethiopia is the seat of the African union and many international organizations regional head quarter, the international community should help Ethiopia to be a good example of a country that human rights are respected and development carried out.

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