



Constitution Building Training Programme

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International IDEA

Building a culture of human rights: Ethnicity, religion and constitution building

A module of the Constitution Building Training Programme

Overview

Why and when do group cleavages lead to untenable political turmoil and even violent conflict? Intergroup tensions often turn violent, and in the aftermath of violence, grievances often seem non-negotiable. Even groups that are relatively homogenous can find much to divide them. This is an important point for constitution builders, who need a competent understanding of the types of institutional mechanisms and policies that are likely to promote group cooperation and stave off malignant conflict.

The key issue to understand is the circumstances under which group loyalty leads to cooperation, competition, adaptive conflict or malignant conflict. Why group identity coheres and what factors influence whether identity becomes a source of conflict is a complicated question to which no single satisfactory answer can be given. However, it is possible to map the different ways in which ethnic and religious claims morph into constitutional questions and how these questions are then articulated in a form that can be expressed in the constitution. Typically ethnic and religious claims are made in the language of rights. Such rights claims may fall into many categories. While constitutional law traditionally lacked a theory of group rights, international law developed a reasonably strong theory and position on group rights, which explains why even today international law is the leading source of norms on group rights.

This Module gives participants a foundation in the political processes and institutional arrangements which may successfully manage group differences. It provides a theoretical framework for understanding the historical development and rationale for group rights, and how issues based on identity can find expression through the constitution. The Module delves into options for the guarantees, freedoms and structures which can promote peaceful coexistence. Religion and ethnicity, as convergence points for group identity, is highly context specific. However through a normative grounding in basic principles and numerous case studies and exercises, the participant will be equipped to identify options while understanding the challenges and benefits inherent to each.

Learning outcomes

At the end of this Module participants should be able to:

1. Understand how religious and ethnic identity claims are made and represented in the constitution.
2. Recognize the various features of group rights and know how to articulate these features in the language of law.
3. Understand the differences between protection of religious claims and ethnic claims in the constitution.

4. Assess the extent to which a particular constitution embeds group rights.
5. Understand the difficulties and challenges of incorporating group rights in the constitution.

Module Structure

