



Submission to the United Nations Special Rapporteur on Minority Issues
Human Rights and International Law Class, Hamilton Lugar School of Global and International
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I. Introduction

In this paper, we focus exclusively on the second, third and fourth questions of the call to inputs, we present couple of examples from national constitutions and laws, representing various minority groups i.e. women, youth, indigenous groups, and religious minorities, at different situations of dominance and vulnerability i.e. occupation, religious states, settler-colonialism, and post-conflict situations. We have refrained from making particular recommendations (hence decided not to answer the first and last questions) and limited our focus on helping the Special Rapporteur by providing different country cases.

II. Question two

Are there institutional arrangements that guarantee (or facilitate) effective political representation of persons belonging to minorities? For example, a Second Chamber in Parliament, the federal structure of the State, specific “minority institutions” (such as a Council of Minorities or a dedicated Ombudsperson, or electoral mechanisms (quotas, separate lists for minorities))²

Several constitutions worldwide ensure political representation for minority groups through rights recognition and the establishment of legal mechanisms. This can involve dedicated mechanisms or integration into existing ones. Our examples below illustrate these examples from

¹ This submission serves the purpose of informing the forthcoming report of the Special Rapporteur on Minority Issues to the UN General Assembly in October 2024, during its 79th session. The information provided has been researched and drafted by a group of students participating in the Spring 2024: I204 (8222) Human Rights and International Law Class at Indiana University, Bloomington. The document has been edited by the Associate Instructor and has been reviewed by the principal Instructor of the class. *Information or recommendations or attributions presented herein do not necessarily reflect the official position of our institution.*

² We would like to note that all constitutions and legal documents we looked at did not aim to define minorities. The only exception comes from Croatia in Article 5 of the Constitutional Law on the Rights of Minorities which reads: “A national minority within the terms of this Law shall be considered a group of Croatian citizens whose members have been traditionally inhabiting the territory of the Republic of Croatia and whose ethnic, linguistic, cultural and/or religious characteristics differ from the rest of the population, and who are motivated to preserve these characteristics”



HAMILTON LUGAR

SCHOOL OF GLOBAL AND INTERNATIONAL STUDIES
Indiana University

Latin American countries (indigenous groups), African countries (Women and Youth), and post-conflict societies (power-sharing arrangements), and others.

- The Bolivian constitution guarantees in Article 26 the direct election, designation, and nomination of representatives for nations and rural indigenous peoples according to their own norms. Similarly, Article 127 of the Venezuelan constitution of 1999, revised in 2009, states that native peoples have the right to political participation, with the state ensuring their representation in the National Assembly and other governing bodies at federal and local levels where there is a native population, as per the law.
- As for the establishment of legal mechanisms to that end, the Colombian constitution provides additional representation for indigenous communities in the senate elections through the election of two additional senators in a special national constituency (Article 171). Furthermore, Article 176 outlines special constituencies in the House of Representatives, ensuring representation for ethnic groups and Colombians residing abroad. This includes the election of four representatives: two for Afro-descendant communities, one for indigenous communities, and one for the international constituency, with votes from citizens abroad counted exclusively (Article 176).
- In Belgium, the constitution of 1831, revised in 2014, outlines the composition of the Senate in Article 67, consisting of 60 senators. Among them, twenty-nine senators are appointed by the Flemish Parliament or the Dutch linguistic group of the Parliament of the Brussels-Capital Region. Additionally, ten senators are appointed by the Parliament of the French Community, eight by the Parliament of the Walloon Region, two by the French linguistic group of the Parliament of the Brussels-Capital Region, and one by the Parliament of the German-speaking Community, among others.
- In Bolivia, Article 147 of the constitution guarantees proportional participation of nations and rural native indigenous peoples in the election of assembly members. Similar provisions exist for the composition of the cabinet of ministry (Article 172), constitutional courts (Article 197), and the supreme electoral committee (Article 211). Additionally, the electoral body is charged with ensuring compliance with the norms and procedures of these communities and nations in the elections of their authorities, representatives, and candidates. Similarly, As a result of the Maori Representation Act in New Zealand and subsequent legal developments, each area in New Zealand has both a general and a Māori electorate for parliamentary elections, totaling seven as of 2020.
- In Rwanda's 2003 Constitution, Article 75 states that the Chamber of Deputies consists of 80 deputies, with 24 of them being women elected by a specific electoral college. Additionally, two deputies are elected by the national youth council, and one by the national council of persons with disabilities. Part XVI of the Indiana Constitution, titled "Special Provisions Relating To Certain Classes," includes reserved seats for specific castes, tribes, and communities, including the Anglo-Indian Community, in the House of



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People and legislative assemblies of states. Initially intended as a provisional measure for 70 years, many of these provisions are set to expire by 2030 but are subject to extension.

- The Indian constitution also addresses women's representation, with reserved seats in various local government bodies. However, in 2023, India's Parliament passed a landmark law reserving one-third of legislative seats for women, effective from 2029, aiming to promote more equal representation in the country's powerful lower house and state legislatures. India also has other mechanisms such as the Ministry of National Minority Affairs, which implements extensive policies for minorities.
- Post-conflict, multi-ethnic societies present an interesting case, since there are typically power-sharing arrangements in effect. Bosnia and Herzegovina's constitution, a result of the Dayton Agreement, Article IV regarding the parliament divides its composition between 15 Delegates. Two-thirds come from the Federation, including five Croats and five Bosniaks, while one-third comes from Republika Srpska, with five Serbs. BiH complemented its constitutional model with establishing a Council for National Minorities in 2006, representing 17 national minorities and recommending particular measures to the parliament. In Lebanon, the political offices of the President, Prime Minister, Speaker of the House, and major cabinet and Armed Services roles are divided mostly between Christian Maronites, Sunni Muslims, Shia Muslims, based on the Taif Agreement. Article 24 of the Constitution of Lebanon specifies the distribution of representative seats in the Chamber of Deputies between Muslims and Christians.

III. Question three

Are there minority issues insulated from (or not subject to) State authorities' decisions (including the Parliament)? (For example, constitutional guarantee; political/traditional agreement; competence on minority issues at a regional level, where the persons belonging to a minority represent the majority of the population).

Our finding is that two of the biggest issues that are excluded from the jurisdiction of state authorities are land ownership and religious rights (personal status rights). Below couple of examples from constitutions worldwide:

- Article 28 of the Fiji Constitution states that "The ownership of all iTaukei land shall remain with the customary owners of that land and iTaukei land shall not be permanently alienated, whether by sale, grant, transfer or exchange..."
- Article 3 of the Egyptian Constitutions states that "The principles of the laws of Egyptian Christians and Jews are the main source of laws regulating their personal status, religious affairs, and selection of spiritual leaders."



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- The Constitutional Law on the Rights to National Minorities (2002) of the Republic of Croatia, in Article 32, allows minority self-governments, minority representatives, and the Council for National Minorities to file a constitutional complaint with the Constitutional Court if they believe that minority rights protected by this law and special legislation have been violated.
- The Constitution Act of 1981 (Section 25) of Canada confirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada and ensures that the rights and freedoms guaranteed in the Charter shall not diminish these rights. This includes rights recognized in the Royal Proclamation of October 7, 1763, and those established through land claims agreements.
- Article 43 of the Iraqi Constitution guarantees that The followers of all religions and sects are free in the: Practice of religious rites, including the Husseini rituals. Management of religious endowments (waqf), their affairs, and their religious institutions, and this shall be regulated by law.
- Article 12 of the Iranian Constitutions reads: “... The official religion of Iran is Islam and the Twelver Ja'farî school [in usul al-Dîn and fiqh], and this principle will remain eternally immutable. Other Islamic schools, including the Hanafî, Shafi'î, Malikî, Hanbalî, and Zaydî, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools of fiqh constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school of fiqh, without infringing upon the rights of the followers of other schools.”
- Article 26 of the Indian Constitution grants freedom to manage religious affairs. Subject to public order, morality, and health, every religious denomination or section thereof has the right to manage its own religious affairs, own and acquire property, and administer such property in accordance with the law.
- Article 17.2 of the Jamaican constitution states that the constitution of a religious body or denomination cannot be altered without the consent of its governing authority.
- Article 39.2 of the Kosovo constitution states that religious denominations are free to regulate their internal organization, religious activities, and ceremonies independently.

Question four

Are there institutional arrangements and/or political practices that de facto exclude persons belonging to minorities from effective participation in decisions at the national – and, where appropriate, regional level – concerning the minority to which they belong?



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Based on our findings, most of the provisions found that de jure and de facto exclude minorities from effective participation includes qualifications provisions for standing for elections, at certain levels of government. We noticed a correlation between states that identify a particular state religion with exclusion. Below are some of our example:

- The 2004 Constitution of Afghanistan, which is now suspended under Taliban, states in Article 62 that in order to stand for Presidential elections, the candidate must be a Muslim. This also applies for the position of the Vice President. Similarly, Article 91 of the 1979 Iranian Constitution establishes a Guardian Council to "examine the compatibility of legislations passed by the Islamic Consultative Assembly with Islam." The council is explicitly composed of Muslim jurists. Chapter VIII on the Head of State/Leadership Council also exclusively limits this position to a Muslim leader.
- De facto impediments to effective participation are evident in situations of occupation, as seen with approximately 5.5 million Palestinian residents in territories occupied by Israel since 1967. Among them, roughly 3.5 million reside in the West Bank (including about 350,000 in East Jerusalem) and around 2 million in the Gaza Strip. Despite their significant presence, they are denied the right to vote or run for Knesset, and they lack representation in the political institutions that govern their daily lives, [as shown by B'Tselem](#).