

# MINORITY PROTECTIONS

## INTRODUCTION

This chapter identifies the core elements of the various mechanisms states use to protect minorities through comparative state practice. This chapter also outlines the provisions of the Darfur Peace Agreement related to minority protections and provides sample language parties may wish to consider when drafting provisions establishing minority protections.

A state may choose to indicate which groups have minority status. A state may also choose to indicate that other unnamed minorities who meet certain qualifications can claim minority protections or rights. States may also include a provision that mandates adherence to international treaties and conventions that protect minority rights.

A state may provide for mechanisms to encourage the inclusion of minorities in the executive or legislative branch of the central government. In the executive, this inclusion may take the form of a designated ministry of minority affairs or a committee responsible for policies related to minority rights. A state can ensure inclusion of minorities in the legislature through various mechanisms including: (1) setting aside seats in the legislature for minority representatives; (2) providing representation in the legislature for minority populations that gain a minimal threshold in an election; (3) establishing committees to review minority-related legislation; or (4) requiring specific voting procedures for passage of such legislation.

The 2006 Darfur Peace Agreement (DPA) includes several protection and representation mechanisms and provides general provisions that protect religious practices, language, and cultural customs. The DPA established protections for minority education systems and requires the government to ensure equality in educational standards.<sup>1</sup> The DPA also provides for minority representation in the executive, legislative, and judicial branches of government.<sup>2</sup> Minorities are also to

---

<sup>1</sup> Darfur Peace Agreement, art. 14, paras. 85-87, May 5, 2006, *available at* [http://www.unmis.org/english/2006Docs/DPA\\_ABUJA-5-05-06-withSignatures.pdf](http://www.unmis.org/english/2006Docs/DPA_ABUJA-5-05-06-withSignatures.pdf) (last accessed, Sept. 21, 2007).

<sup>2</sup> Darfur Peace Agreement, art. 1, para. 11; art. 2, para. 18.

have positions in the police, armed forces and in economic and monetary institutions.<sup>3</sup>

## CORE ELEMENTS

### **General Provisions for the Inclusion of Cultural, Ethnic, and Religious Minorities**

Many constitutions and peace agreements specifically provide for the inclusion of minority groups in the central government, as well as the preservation of religious practices, language, and cultural heritage. A state may choose to name specific groups that can claim minority status and benefit from these provisions. For example, Turkish law identifies minorities by religion as “non-Muslims,” specifically naming Greeks, Armenian Christians, and Jews as the minority populations.<sup>4</sup> The Slovene Constitution permits the adoption of Italian and Hungarian as national languages in “ethnic areas” (which are determined by statute) and guarantees the rights of Italians and Hungarians to develop their own educational curricula.<sup>5</sup>

Peace agreements and constitutions that make provisions for specific minority or ethnic groups may prevent members of other minority groups from utilizing the same protections. For this reason, some states name specific groups and provide a catchall phrase that will apply to all minorities not specifically mentioned by the provision. The Iraqi Constitution, for instance, names certain minority groups, including the Armenian, Assyrians, Chaldeans, and Turkomen, as having specific political, cultural, and educational rights, but also indicates these rights extend to the state’s “various nationalities.”<sup>6</sup>

---

<sup>3</sup> Darfur Peace Agreement, art. 17, para. 106(c).

<sup>4</sup> The Convention Relating to the Regime of the Straits, July 24, 1923, *available at* <http://www.lib.byu.edu/~rdh/wwi/1918p/straits.html#gt2> (last accessed, Sept. 20, 2007); Convention Concerning the Exchange of Greek and Turkish Populations, Jan. 30, 1923, *available at* <http://www.lib.byu.edu/~rdh/wwi/1918p/straits.html#gt2> (last accessed, Sept. 20, 2007). Minority protections in Turkey are governed by The Convention Relating to the Regime of the Straits and the Convention Concerning the Exchange of Greek and Turkish Populations.

<sup>5</sup> SLOVENIA CONST. arts. 5, 11, 64 (1991), *available at* <http://www.dz-rs.si/index.php?id=351&docid=25&showdoc=1> (last accessed, Sept. 20, 2007).

<sup>6</sup> IRAQ CONST. art. 125 (2005). Article 125 of the Iraq Constitution guarantees “(guaranteeing, “administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents,” and indicating that this shall be regulated by law. ).

Other states ensure the protection of minority groups without naming a particular group. Instead, these states list what criteria a minority group must possess in order to trigger specific protections. In Macedonia, the agreement that ended the conflict between ethnic Albanians and ethnic Macedonians did not expressly recognize Albanian as a second official language.<sup>7</sup> Instead, it declared any language spoken by at least 20 percent of Macedonia's population an official language.<sup>8</sup> Approximately 25 percent of Macedonia's population is ethnically Albanian.<sup>9</sup>

A state may also codify specific criteria for determining a group's status as minority. Although no universal definition of minority exists, a state may adopt language similar to the United Nations.<sup>10</sup> It is also common state practice for a state's constitution to include provisions mandating adherence to obligations under international agreements, among which may be the International Covenant on Economic, Social, and Cultural Rights,<sup>11</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>12</sup> Both Conventions include references to non-discrimination policies.

## **Executive Branch Mechanisms**

---

<sup>7</sup> The Ohrid Agreement, Aug. 13, 2001, *available at* [http://www.coe.int/t/e/legal\\_affairs/legal\\_co-operation/police\\_and\\_internal\\_security/OHRID%20Agreement%2013august2001.asp](http://www.coe.int/t/e/legal_affairs/legal_co-operation/police_and_internal_security/OHRID%20Agreement%2013august2001.asp) (last accessed, Sept. 19, 2007).

<sup>8</sup> The Ohrid Agreement, Aug. 13, 2001, art. 6, sec. 5; art. 9, Annex A, art. 7 (providing that "Any other language spoken by at least 20 percent of the population is also an official language, as set forth herein." The only language to satisfy this requirement is Albanian; Annex A, proposed Amendment to Article 7 of the Macedonian Constitution, which contains changes to reflect recognition of the Albanian language as an official language of Macedonia.).

<sup>9</sup> U.S. DEPARTMENT OF STATE, BACKGROUND NOTE: MACEDONIA, U.S. Department of State 3.

<sup>10</sup> For more information on the United Nations' designation of cultural, ethnic, and religious minorities *see* The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly Resolution 47/135 (Dec. 18, 1992). OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, MINORITY RIGHTS, UNITED NATIONS FACT SHEET NO.18 (REV.1). The UN defines a minority group as "a non-dominant group of individuals who share certain national, ethnic, religious or linguistic characteristics which are different from those of the majority population."

<sup>11</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, *available at* [http://www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm) (last accessed Sept. 8, 2007).

<sup>12</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, *available at* <http://www.ohchr.org/english/law/cerd.htm> (last accessed, Sept. 21, 2007).

A state may also provide specific mechanisms within its executive branch to encourage the inclusion of minorities. These mechanisms may take the form of a ministry to oversee the protection of minority populations. For example, Pakistan has a Ministry of Minorities tasked with working for the protection of the country's religious minorities.<sup>13</sup>

Some states create an executive council or committee dedicated to minority affairs. This committee may be an official institution of the government, such as the Council for National Minorities of the Government of the Czech Republic. This consultative committee, headed by a member of the Czech government, reviews, prepares reports, and proposes distribution ratios of government resources to minority populations.

A number of states have established commissions made up of non-governmental actors but overseen by their respective central governments. This is the case in Romania, where a governmental decree established the Department for the Protection of National Minorities to oversee a Council for National Minorities. The Council is comprised of non-government organizations and is responsible for distributing government funds to different organizations that promote the interests of ethnic minority communities.<sup>14</sup> State practice illustrates that such commissions are better able to advocate for the rights of minority groups if they maintain some level of fiscal and organizational independence from the executive branch.

## **Legislative Mechanisms**

---

<sup>13</sup> MINISTRY OF MINORITIES OF PAKISTAN, *available at* <http://www.pakistan.gov.pk/ministries/index.jsp?MinID=33&cPath=519> (last accessed, Sept. 12, 2007). The Pakistan Ministry of Minorities is responsible for safeguarding the rights of minorities; promotion of welfare of minorities; protection of minorities against discrimination; representation of Pakistan in international bodies and conferences relating to minorities, including the UN Sub-Commission on Prevention of Discrimination to Minorities, International Agreements and commitments in respect of minorities and their implementation; all other matters relating to minorities; Evacuee Trust Property Board; and Policy and legislation with regard to evacuee trust property.

<sup>14</sup> GOVERNMENT OF ROMANIA, GOVERNMENT DECREE ON THE CREATION, ORGANIZATION AND FUNCTIONING OF THE DEPARTMENT FOR THE PROTECTION OF NATIONAL MINORITIES, GOVERNMENT OF ROMANIA (1997), *available at* [http://www.minelres.lv/NationalLegislation/Romania/Romania\\_MinorDept\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Romania/Romania_MinorDept_excerpts_English.htm) (last accessed, Sept. 12, 2007).

A state may also use various methods through which to address the interests of ethnic and cultural minorities within its legislature. These include setting aside seats in the legislature for minority representatives; providing for representation for minority populations that gain a minimal threshold of votes in an election; and establishing committees to review minority-related legislation or requiring specific voting procedures for passage of such legislation.

### *Legislative Set-Asides*

Setting aside a specific number or percentage of seats for representatives elected from minority groups may increase minority representation. Such set asides may ensure a minimal level of representation for cultural, ethnic, or religious minorities in a state's legislative body. For example, the Rambouillet Interim Agreement in Kosovo reserved 30 of 120 seats in the national legislature for members of minority communities.<sup>15</sup> Likewise, the Croatian constitution reserves five of 153 seats in the unicameral assembly.<sup>16</sup> Parties and alliances contesting the 14-multimember Group Representation Constituencies in Singapore must include an ethnic minority candidate on the ticket; ensuring that at least nine of the 93-member national legislature's seats go to Malays and five to Indians or other minorities.<sup>17</sup> Lastly, the Slovenian constitution allots the both the Italian and Hungarian populations one deputy each in the state's 90-member National Assembly.<sup>18</sup>

A state may also divide seats in its national legislature among representatives of specific groups. The Bosnia-Herzegovina Constitution allots

---

<sup>15</sup> Interim Agreement for Peace and Self-Government in Kosovo, Feb. 23, 1999, ch. 1, art. 2, sec. 1, para b(i), (ii), *available at* [http://www.usip.org/library/pa/kosovo/kosovo\\_rambouillet.html#frame2](http://www.usip.org/library/pa/kosovo/kosovo_rambouillet.html#frame2) (last accessed, Sept. 21, 2007). Pursuant to the Rambouillet Interim Agreement for Peace in Kosovo, communities whose members constitute more than 5 percent of the population shall divide thirty of the 160 seats in the General Assembly equally, and presumes that the Serb and Albanian populations shall meet the 5 percent threshold.

<sup>16</sup> CROATIA CONST. art. 15 (1990) *available at* [http://www.usud.hr/default.aspx?Show=ustav\\_republike\\_hrvatske&m1=27&m2=50&Lang=en](http://www.usud.hr/default.aspx?Show=ustav_republike_hrvatske&m1=27&m2=50&Lang=en) (last accessed, Sept. 21, 2007).

<sup>17</sup> SINGAPORE CONST. art 39, sec. A (1965) *available at* [http://statutes.agc.gov.sg/non\\_version/cgi-bin/cgi\\_retrieve.pl?&actno=Reved-CONST&date=latest&method=part](http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?&actno=Reved-CONST&date=latest&method=part) (last accessed, Sept. 21, 2007).

<sup>18</sup> SLOVENIA CONST. art. 80 (1991).

one-third of the seats in the House of Peoples to Serbians,<sup>19</sup> and two-third of the seats in the House of Representatives to the Croatian and Bosnian (five Croatian seats and five Bosnian seats) communities.<sup>20</sup> This system assures the Croatian community, with about 14 percent of the state's population,<sup>21</sup> one-third community representation in the House of Peoples. Bosnians, however, who make up the majority of the population,<sup>22</sup> only have one-third of the delegates to the House of Peoples, and hold less than a majority of the seats in the House of Representatives.<sup>23</sup>

### *Minimum Threshold for Minority Representation*

A state may also provide for guaranteed representation of a minority or political party based on the percentage of votes received in a national legislature election. This can provide a mechanism through which a politically unified cultural, ethnic, or religious minority can gain representation in a state's legislature. In Romania, for instance, if a political party based on ethnic identity of a "national minority" does not win a seat in the national legislature, it has the right to one seat.<sup>24</sup>

### *Legislative Committees*

A state may also create a committee within its legislature to address minority rights and interests. Macedonia's 2001 Ohrid Agreement calls for the unicameral National Assembly to establish a Committee for Inter-Community Relations composed of members of the Assembly who belong to several ethnic groups. This committee considers issues of inter-community relations and makes proposals for the resolution of disputes.<sup>25</sup>

---

<sup>19</sup> BOSNIA AND HERZEGOVINA CONST. art. 4, para. 1 (1995), *available at* [http://www.oefre.unibe.ch/law/icl/bk00000\\_.html](http://www.oefre.unibe.ch/law/icl/bk00000_.html) (last accessed, Sept. 21, 2007).

<sup>20</sup> BOSNIA AND HERZEGOVINA CONST. art. 4, para. 1 (1995).

<sup>21</sup> THE CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK, BOSNIA ND HERZEGOVINA, *available at* <https://www.cia.gov/library/publications/the-world-factbook/geos/bk.html> (last accessed, Sept. 21, 2007).

<sup>22</sup> THE CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK, BOSNIA AND HERZEGOVINA.

<sup>23</sup> BOSNIA AND HERZEGOVINA CONST. art. 4, para. 2 (1995); THE CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK, BOSNIA AND HERZEGOVINA.

<sup>24</sup> ROMANIA CONST. art. 59 (1991), *available at* <http://domino.kappa.ro/guvern/constitutia-e.html> (last accessed, Sept. 20, 2007).

<sup>25</sup> The Ohrid Agreement, Aug. 13, 2001, art. 9, Annex A, arts. 69, 78. The Ohrid Agreement calls for a committee composed of members of the Assembly who belong to several ethnic

### *Specific Voting Provisions for Legislation Affecting Minorities*

To prevent the hasty passage of legislation detrimental to members of particular minority groups, a state may require a specific procedure for the adoption of such laws. A state may permit a hold on bills under review, which is the case in Belgium. If three-quarters of the national legislature's members from one of the linguistic communities believes a provision of a draft bill or a motion is "of a nature to gravely damage relations between the [linguistic] communities," they can require the national legislature to suspend standard processes for 30 days to allow a review of the bill by the legislature's Council of Ministers.<sup>26</sup>

A state may also enact specific provisions for the passage of legislation that affects a minority. The Macedonia Ohrid Agreement, for example, requires minimum thresholds of community support within the National Assembly for certain issues, particularly local self-government, the rights of member communities, and the selection of Supreme Court justices.<sup>27</sup> Alternatively, a state may mandate the participation of national legislature members from certain groups to pass legislation. In Bosnia and Herzegovina, for example, nine members of the 15-member House of Peoples constitute a quorum, if at least three Bosnian, three Croatian, and three Serbian delegates are present.<sup>28</sup>

### **Supplementary Mechanisms**

---

groups, in the following proportions: seven Macedonians, seven Albanians, and five members from among the Turks, Vlachs, Romanies, and two other communities. The Assembly elects the members of the Committee. The Committee considers issues of inter-community relations and makes proposals for their resolution votes of those Representatives claiming to belong to minority communities.

<sup>26</sup> BELGIUM CONST. art. 54 (1993), *available at* <http://www.fed-parl.be/gwuk0004.htm#E12E4> (last accessed, Sept. 21, 2007). To prevent abuse, protective motions cannot be invoked against budgets or laws requiring a special majority. Additionally, each linguistic group is limited to using the protective motion once on each bill or motion. Belgium also provides an additional protection for its linguistic minorities in the election of the Public Attorney, for which there must be a majority of the votes of those Representatives claiming to belong to minority communities.

<sup>27</sup> The Ohrid Agreement, Aug. 13, 2001, art. 5. For laws that directly affect culture, use of language, education, personal documentation, and use of symbols, to be adopted, they must receive both a majority of total Representative votes, as well as "a majority of the votes of the Representatives claiming to belong to the communities not in the majority in the population of Macedonia."

<sup>28</sup> BOSNIA AND HERZEGOVINA CONST. art 4, para. 1(b) (1995).

In addition to provisions for effective inclusion of ethnic and cultural minorities in a state's executive, legislative, or judicial branch, a state may choose to implement supplementary mechanisms to ensure these members of minority groups have access to government services. Such mechanisms can provide avenues through which these members of minority groups can advocate for their interests and report allegations of discrimination.

It is common state practice to provide for a human rights commission.<sup>29</sup> A commission may be legally mandated but remain independent from the government. A state may also elect or appoint an official to investigate complaints of discrimination. Hungary, for example, has an Ombudsman for the Protection of National and Minority Rights. Elected by a two-thirds national legislature vote, the Ombudsman is responsible for investigating allegations of abuse and initiating legal redress for violations.<sup>30</sup>

### **Targeted Programs for Cultural, Ethnic and Religious Minorities**

If a minority population is exceptionally underprivileged or was subject to discrimination, a state may choose to implement targeted programs to address these inequalities. For example, the United States requires businesses that receive government funds over a certain amount to take affirmative action to ensure equality in their hiring of employees, especially with regard to members of ethnic minority groups, women, war veterans, and disabled persons. This ensures that companies and universities that obtain federal funds cannot discriminate against minorities.<sup>31</sup>

## **DARFUR PEACE AGREEMENT**

### **General Provisions for the Inclusion of Cultural, Ethnic and Religious Minorities**

---

<sup>29</sup> For more information on human rights commissions, see Human Rights Commissions chapter of this guide.

<sup>30</sup> HUNGARY CONST. art. 32(/B) (1949)), *available at* <http://www.mkab.hu/en/enpage5.htm> (last accessed, Sept. 21, 2007).

<sup>31</sup> Civil Rights Act of 1964, 42 U.S.C. 1971; Executive Order 11246, September 24, 1965; UNITED STATES DEPARTMENT OF LABOR, *available at* <http://www.dol.gov/dol/topic/hiring/affirmativeact.htm> (last accessed, Sept. 21, 2007). This policy was established by The Civil Rights Act of 1964 and an executive order on Equal Employment Opportunity.

The Darfur Peace Agreement (DPA) provides for the right of ethnic and cultural communities “to practice their beliefs, use their languages, and develop their cultures within their customs.”<sup>32</sup> Furthermore, the DPA requires the Government of Sudan to formulate macroeconomic policies that promote the quality of life and living conditions of all its citizens without discriminating because of “geographical location, race, ethnicity, religion, language, political affiliation or gender.”<sup>33</sup>

### *Educational Institutions*

The DPA extends minority protections to the state’s educational system by requiring the Government of Sudan to improve the educational system in Darfur to meet national education standards.<sup>34</sup> The DPA also requires that the Government of Sudan to “promote the educational interests of the disadvantaged Darfurians”<sup>35</sup> by providing flexible eligibility requirements,<sup>36</sup> and exempting tuition fees for Darfurian students for five years.<sup>37</sup> The DPA also requires that Darfurians be “fairly represented” in leadership positions at the public universities both in Darfur and in the capital.<sup>38</sup>

### **Government Inclusion**

The DPA also provides for minority representation in government institutions including the executive branch, legislative branch, judicial branch, national civil service, national armed forces, police, and intelligence services.<sup>39</sup> Where appropriate, precedents and population size should determine Darfurian representation at all levels of the federal government.<sup>40</sup>

---

<sup>32</sup> Darfur Peace Agreement, art. 3, sec. 39.

<sup>33</sup> Darfur Peace Agreement, art. 137.

<sup>34</sup> Darfur Peace Agreement, art. 14, para. 87.

<sup>35</sup> Darfur Peace Agreement, art. 14, para. 86. The DPA requires the government to take these actions at the primary, intermediate, secondary, and university levels.

<sup>36</sup> Darfur Peace Agreement, art. 14, para. 86(a).

<sup>37</sup> Darfur Peace Agreement, art. 14, para. 86(a).

<sup>38</sup> Darfur Peace Agreement, art. 14, para. 85.

<sup>39</sup> Darfur Peace Agreement, art. 1, para. 11; art. 2, para.18. Representation “shall reflect at all level a fair and equitable representation of all citizens, including those from Darfur.” Requirements concerning qualifications and competence must be taken into account when making available positions to Darfurians.

<sup>40</sup> Darfur Peace Agreement, art. 2, para. 17.

### *Executive Branch*

The DPA requires that the President of Sudan consider the importance of including Darfurians, when making official appointments.<sup>41</sup> Additionally, the DPA reserves three executive positions for Darfurians, including the Senior Assistant,<sup>42</sup> the Chairperson of the Transitional Darfur Regional Authority,<sup>43</sup> and a Presidential Advisor.<sup>44</sup>

### *Legislative Branch*

The DPA reserves a minimum of twelve seats in the National Assembly for nominees of the Sudanese Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM).<sup>45</sup> The DPA also requires that representatives have no direct affiliation to a political party.<sup>46</sup> Finally, the DPA delegates authority over issues concerning Darfur regional representation in the Council of States to the Darfur-Darfur Dialogue and Consultation conference.<sup>47</sup>

### *Judicial Branch*

The DPA mandates the adequate representation of Darfurians in the “Constitutional Court, the National Supreme Court and other National Courts, as well as in the National Judicial Service Commission by competent and qualified lawyers.”<sup>48</sup>

### *National Civil Service*

---

<sup>41</sup> Darfur Peace Agreement, art. 8, para. 64.

<sup>42</sup> Darfur Peace Agreement, art. 8, paras. 65-66. The Senior Assistant will be a member of the National Council of Ministers, the National Security Council and the National Planning Council and will have influence over national policies. The Senior Assistant shall be the fourth ranking member in the Presidency.

<sup>43</sup> Darfur Peace Agreement, art. 8, para. 65.

<sup>44</sup> Darfur Peace Agreement, art. 8, para. 67. The Presidential Advisor must be chosen from “among Darfurians.”

<sup>45</sup> Darfur Peace Agreement, art. 9, para. 71. The agreement “highly” recommends that some women be nominated. Darfur Peace Agreement, art. 9, para. 71. For more information on women’s rights see the Women’s Rights chapter of this guide

<sup>46</sup> Darfur Peace Agreement, art. 9, para. 72.

<sup>47</sup> Darfur Peace Agreement, art. 9, para. 72.

<sup>48</sup> Darfur Peace Agreement, art. 10, para. 73.

Pursuant to article 11 of the DPA, the National Civil Service should be representative of the Sudanese people.<sup>49</sup> The DPA also establishes a National Civil Service Commission to ensure adequate Darfurian representation in the National Civil Service,<sup>50</sup> and a Panel of Experts to address the long-term goals of increasing Darfurian representation in all levels of the National Civil Service.<sup>51</sup>

### *Armed Forces, Law Enforcement Agencies and National Security*

The DPA requires the fair and equitable representative of all citizens, including Darfurians, at all levels of the Sudanese Armed Forces and other security organizations.<sup>52</sup> The DPA provides for the reintegration of all former combatants into the Sudanese Armed Forces, law enforcement agencies, and security services.<sup>53</sup> In addition to the integration of former combatants, the Government of Sudan must take action to remedy imbalances at the senior level of the military and any imbalances in the admission of students to the military academies.<sup>54</sup> The DPA also provides employment opportunities in law enforcement to all Sudanese citizens,<sup>55</sup> and mandates that the law enforcement agencies of the national capital be representative of the Sudanese population.<sup>56</sup>

### *Other National Institutions, Commissions and the National Capital*

---

<sup>49</sup> Darfur Peace Agreement, art. 11, para. 74. The DPA emphasizes the importance of having minority representatives at the middle and senior levels of the National Civil Service.

<sup>50</sup> Darfur Peace Agreement, art. 11, para. 75.

<sup>51</sup> Darfur Peace Agreement, art. 11, para. 76, 77. To implement these initiatives, the DPA requires the Government of Sudan to: (1) establish objectives in middle and upper level positions. (2) reserve certain posts for “qualified women;” (3) create policies and take affirmative action on training and recruiting qualified Darfurians; and (4) review the policies and programs after three years and make changes where appropriate.

<sup>52</sup> Darfur Peace Agreement, art. 1, para. 11; art. 12, para. 79.

<sup>53</sup> Darfur Peace Agreement, art. 12, para. 80. Integration must be done pursuant to guidelines set out in Chapter 3 of the Darfur Peace Agreement.

<sup>54</sup> Darfur Peace Agreement, art. 12, para. 81.

<sup>55</sup> Darfur Peace Agreement, art. 12, para. 82.

<sup>56</sup> Darfur Peace Agreement, art. 15, para. 90.

The DPA includes a catchall phrase allowing Darfurians, including members of the SLM/A and JEM, to participate in national institutions and Constitutional Commissions not elsewhere specified in the DPA.<sup>57</sup>

### *Pre-Election Power Sharing with Darfur*

Prior to provincial elections, which are to be held in accordance with the provisions of the Interim National Constitution, the DPA establishes a system of shared powers in the three Darfurian provinces. One of the Governors and two Deputy Governors from the other two states will be SLM/A and JEM nominees.<sup>58</sup> The DPA increases, the number of seats in provincial legislatures to seventy-three representatives from the Darfur provinces.<sup>59</sup> The DPA allots twenty-one seats in each provincial legislature and “Deputy Speakers of the Darfur provinces’ Legislative Assemblies” to SLM/A and JEM nominees.<sup>60</sup>

### **Minority Rights in Wealth Sharing**

The DPA provides mechanisms for the representation of minorities in the four institutions established by the DPA’s wealth sharing provisions: Financial Allocation and Monitoring Commission (FFAMC); the Darfur Reconstruction and Development Fund (DRDF); the Darfur Rehabilitation and Resettlement Commission (DRRC); and the Compensation Commission. The parties agree on the need to provide “fair representation” in government institutions that formulate and implement monetary policies.<sup>61</sup>

The FFAMC, which is responsible for implementing the DPA’s wealth sharing provisions, provides Darfurian representation in the central government’s economic policies.<sup>62</sup> The DRDF is responsible for soliciting domestic and

---

<sup>57</sup> Darfur Peace Agreement, art. 13, para. 84. In particular, this includes, the National Constitutional Review Commission, the National Elections Commission, the Population Census Council and the Technical ad hoc Border Committee that is charged with demarcating precisely the January 1, 1956 North/South borderline.

<sup>58</sup> Darfur Peace Agreement, art. 16, para. 91(a)-(b). The agreement also provides the SLM/A and JEM the nomination of “[t]wo ministerial positions and one senior Advisor in each of the three states of Darfur, and...at least one person at a senior level in each state ministry.”

<sup>59</sup> Darfur Peace Agreement, art. 16, para. 91(c).

<sup>60</sup> Darfur Peace Agreement, art. 16, para. 91(c)-(d).

<sup>61</sup> Darfur Peace Agreement, art. 17, para. 106(c).

<sup>62</sup> Darfur Peace Agreement, art. 18, para. 120, 129.

international funds and disbursing these funds for the resettlement, rehabilitation and reintegration of displaced persons. The DRDF is also required to use these funds to build Darfur's infrastructure.<sup>63</sup> The DRRC is responsible for assisting displaced persons who want to return to their places of origin.<sup>64</sup> To adjudicate property disputes that arise from resettlement, the DPA requires the DRRC to establish independent Property Claims Committees (PCC).<sup>65</sup>

The DPA also calls for the establishment by Presidential Decree of a Compensation Commission<sup>66</sup> to adjudicate victims compensation claims.<sup>67</sup> The parties will nominate the Compensation Commission's membership along with "persons representative of affected communities."<sup>68</sup>

### SAMPLE LANGUAGE

#### **Article XXX**

#### **General Minority Rights Provisions**

The Government of Sudan recognizes the rights of minority groups [list protected minority groups] to practice their culture, speak their language, and practice their religion.<sup>69</sup>

**OR**

The Government recognizes the rights of all minorities to practice their culture, speak their language, and practice their religion.<sup>70</sup>

**OR**

---

<sup>63</sup> Darfur Peace Agreement, art. 19, para. 154(a).

<sup>64</sup> Darfur Peace Agreement, art. 21, para. 181.

<sup>65</sup> Darfur Peace Agreement, art. 21, para. 197. These PCCs will be representative of the geographic area in which the PPC exercises jurisdiction. Darfur Peace Agreement, art. 21, para. 197.

<sup>66</sup> Darfur Peace Agreement, art. 21, para. 201.

<sup>67</sup> Darfur Peace Agreement, art. 21, para. 200. This harm includes "physical or mental injury, emotional suffering or human and economic losses, in connection with the conflict.

<sup>68</sup> Darfur Peace Agreement, art. 21, para. 202.

<sup>69</sup> This language is drawn from the SLOVENIA CONST. art. 64 (1991).

<sup>70</sup> This language is drawn from the IRAQ CONST. art. 125 (2005).

The Government recognizes the rights of groups that make up [X percentage of the population] to practice their culture, speak their language, and practice their religion.<sup>71</sup>

### **Article XXX**

#### **Executive Branch Mechanisms**

##### *Ministry-oriented Approach*

The Ministry shall monitor the exercise of minority rights in the State.<sup>72</sup>

##### *Committee/Council Approach*

The committee/council shall be set up within the framework of the Government and shall be subordinate to the Executive.<sup>73</sup>

**OR**

The committee/council shall be set up within the framework of the Government and shall be subordinate to the Executive. The committee/council shall be made up of certain non-governmental groups and is responsible for making draft bill proposals, monitoring the application of legislation, and providing opinions on bills and legislature.<sup>74</sup>

### **Article XXX**

#### **Legislative Branch Mechanisms**

##### *Legislative Set-Asides*

The national legislature shall be composed of [a certain number] seats, [a certain number] will be allotted [either proportionally, constitutionally or by

---

<sup>71</sup> This language is drawn from the Ohrid Agreement, Aug. 13, 2001, art. 6, sec. 5..

<sup>72</sup> This language is drawn from Pakistan's Ministry of Minorities.

<sup>73</sup> This language is drawn from the Czech Republic's Council for National Minorities.

<sup>74</sup> This language is drawn from Romania's government decree on the Creation and Functioning of the Department for the Protection of National Minorities.

other means] to [minority community members of political parties representing the minority groups].<sup>75</sup>

*Minimum Threshold for Minority Representation*

Members of an ethnic minority shall be afforded one seat in legislature.<sup>76</sup>

**OR**

Members of an ethnic minority shall be afforded representation in the national legislature if they receive a certain percentage of the national vote.<sup>77</sup>

*Legislative Committees*

- (1) The legislature shall establish a committee for Majority-Minority relations.
- (2) The committee shall be composed of a certain number of the majority and a certain number of the minority.
- (3) The committee is charged with considering issues of Majority-Minority relations in the State and shall make proposals to the national legislature.
- (4) The national legislature will take these proposals into consideration.<sup>78</sup>

*Voting Provisions for Legislation Affecting Minorities*

Laws involving the rights of minorities shall have to pass with majority of the legislature and a majority of the legislators claiming to belong to the communities not in the majority of the population.<sup>79</sup>

---

<sup>75</sup> This language is drawn from the Rambouillet Interim Agreement for Peace in Kosovo, Feb. 23, 1999, ch. 1, art. 2. This language also draws upon BOSNIA AND HERZEGOVINA CONST. art. 4, para. 1 (1995), which provides the Serbian portion of the country with one-third representation in the lower legislative house.

<sup>76</sup> This language is drawn from SLOVENIA CONST. art. 8 (1991), which constitutionally allots each Italian and Hungarian minorities one deputy each in its National Assembly.

<sup>77</sup> This language is drawn from the ROMANIA CONST. art. 59 (1991).

<sup>78</sup> This language is drawn from the Ohrid Agreement, Aug. 13, 2001, art. 9; Annex A, proposed arts. 69, and 78.

<sup>79</sup> This language is from the Ohrid Agreement, Aug. 13, 2001, art. 5.

**OR**

A law involves minority rights if [certain percentage or number] of legislators formally petition the national legislature.<sup>80</sup>

**OR**

In order for laws involving the rights of minorities to be voted on, there shall be a legislative quorum with [a certain number or certain percentage of minority legislators] present.<sup>81</sup>

---

<sup>80</sup> This language is drawn from Belfast Agreement, Strand One, Safeguards, para. 5, sec. d, April 10, 1998, *available at* <http://www.nio.gov.uk/agreement.pdf> (last accessed Sept. 17, 2007). The agreement provides a mechanism minorities can use in order to increase the number of votes needed to pass certain legislation. .

<sup>81</sup> This language is drawn from the BOSNIA AND HERZEGOVINA CONST. art. 4 (1995).