

COLUMBIA UNIVERSITY

IN THE CITY OF NEW YORK

INSTITUTE FOR THE STUDY OF HUMAN RIGHTS

**POWER-SHARING AND
POLITICAL TRANSITION:
THE SYRIA CASE**

Prepared by:

David L. Phillips

Director, Program on Peace-building and Human Rights
Institute for the Study of Human Rights at Columbia University

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Dear Colleague:

Syria's long civil war will end. All Syrians including northern Syrians must reach a political accommodation to create conditions for sustainable peace. Power-sharing can address the grievances of those who have suffered through the country's civil war.

The Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights has experience worldwide working with governments and armed groups during periods of political transition. Its experience is documented on these pages, which consider:

- Constitutional arrangements
- Group and minority rights
- Decentralization issues
- Transitional justice
- Disarmament, demobilization and reintegration

Syria is not the first country to face challenges arising from political violence and transition. The experience of other countries can be instructive. The information on these pages serves as a road-map for negotiations and a manual for peace-building.

This paper is designed to be illustrative, not prescriptive. It describes how other countries have addressed similar challenges.



David L. Phillips
Director, Program on Peace-building and Human Rights
Institute for the Study of Human Rights

CONSTITUTIONAL ARRANGEMENTS

Constitutions provide a basis for the rule of law, distributing governance responsibilities and defining the relationship of individuals and groups to one another and the state. Constitutional power sharing can help address expectations in post-conflict countries undergoing political transition. Such constitutional arrangements are most essential in societies with ethnic and sectarian divisions, or countries emerging from ethnic or religious conflict.

Power-Sharing

The views of citizens as expressed in elections and the formation of governments. However, democratic elections do not necessarily result in democracies. Defined by the principle of “one-person one-vote,” democracies are not inherently representative of all segments in the society. It is rare that leaders of the majority sacrifice the interests of their group or party to foster social harmony with others. Majoritarian rule in divided societies can exacerbate social tensions and spark conflict. Safeguards are needed to prevent a tyranny of the majority.

To institutionalize the “politics of accommodation,” constitutional power-sharing can involve the vertical separation of powers, as well as horizontal distribution of responsibilities to different branches of government. Vertical separation involves national-subnational arrangements, as defined through confederation, federation, asymmetric federal arrangements, or provisions for regional or cultural autonomy. Horizontal separation of powers involves the relationship between the executive, legislature and judiciary. It takes various forms depending on whether the constitution enshrines a parliamentary or presidential system. It also establishes competencies for the judiciary, including measures to uphold individual rights, as well as the protection and promotion of communal or group rights. There is no standard power-sharing formula. It differs from case to case.

While presidential systems tend to be more efficient, presidential rule is often too rigid and not conducive to compromise. In parliamentary systems, the head of state is selected by the legislature and the prime minister serves as head of government. A president with largely ceremonial power may be elected by the parliament, rather than by popular vote. Proportional representation is the best way to ensure election of a diverse legislature, guaranteeing representation to different groups. Access to public administration is essential to ensure the effective expression of minority interests. Broad representation is also required in the civil service, judiciary, police and military.

Sovereignty and Self-Determination

The 1933 Montevideo Convention on Rights and Duties of States (Article I) defines sovereignty as an attribute of statehood. “The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other States.” Sovereignty can be lost or ceded by agreement.

According to President Woodrow Wilson, “Peoples and provinces must be bartered about from sovereignty to sovereignty as if they were chattels or pawns in a game.” He maintained that

territorial questions should be settled in the interests of the population concerned. (11 February 1918). Identity matters. When identity is denied or suppressed, ethno-politics results and conflict can ensue. Minority groups may complain about internal colonialism, or exploitation by the center. Divisions can be aggravated by economic disparities or exploitation of natural resources. When a group feels its aspirations are thwarted or denied, it may seek to exercise its right to self-determination or the right to determine its own political status including the right to constitute its own state. However, self-determination does not necessarily mean separatism. Nations can uphold their unique identities when measures are in place to protect and promote their group rights.

Associational Arrangements

Unitary State

A unitary state is governed by a single unit, the central government, which exercises final authority. Subnational units may exist in a unitary state, but they only have powers that are allocated by the central government. In a unitary state, subnational units are created and abolished and their powers may be broadened and narrowed, by the central government.

Federal State

Federal arrangements accommodate differences among populations divided by ethnic or cultural cleavages yet seeking a common, often democratic, political order. In federal states, sovereignty is shared between the central government and subnational units. Citizens have rights secured by both the central government and sub-national authority. The central government has paramount powers granted to it through the constitution. It usually retains powers regarding defense, foreign policy, and fiscal affairs regarding a common currency. States constituting the federation have an existence and functions that cannot be unilaterally changed by the central government.

Confederation

A confederation is the union of autonomous or semi-autonomous political units, which band together because their individual interests are enhanced through common action. Confederations are often established by treaty between confederation members with equal status. Looser confederations resemble intergovernmental organizations. More integrated confederations resemble federations.

Devolution

Addressing ethnic conflicts – center-periphery, majority-minority, or powerful-powerless – involves a resolution of competing claims preserving both the identity of an aggrieved group, as well as the existing state structure. A unitary state can delegate power by statute through devolution to local government. Like a federation, devolution can be symmetrical or asymmetrical. Symmetrical devolution allocates the same powers to all sub-national units. In asymmetrical devolutionary arrangements, regions vary in their power and status. Asymmetrical arrangements take into account the differing degrees of self-government sought by persons

residing in the sub-national unit. The central government retains the right to revoke or amend devolved powers.

GROUP RIGHTS

Constitutional arrangements help realize the potential of citizens through a bill of rights, which upholds basic individual and human rights. In situations with a long history of conflict, special measures may be needed to uphold group and national rights (i.e. minority rights).

International Standards

Group and national rights have a long history under international law, going back as far as the Treaty of Westphalia in 1648. The League of Nations and the United Nations were both established to promote peace and security by harmonizing the rights of sovereign states with the rights of minorities resident in those states. Over the past fifty years, the international community has developed a broad set of standards for minority rights relevant to all countries.

Sources

The full array of minority rights have not been aggregated into a single international treaty, but are scattered across various UN and regional instruments as well as national constitutions. From the earliest enumeration of minority rights to the present, the two over-riding issues under international law have been (i) equality/non-discrimination and (ii) protection and promotion of the unique identity of minorities. Equality and non-discrimination have been easily translated into juridical standards and are part and parcel of all of the major human rights treaties. A growing body of autonomy precedents provide guidance with respect to the rights of minority groups with historical ties to a specific territory and a history of self-governance.¹

The principles of non-discrimination and equality are established in the UN Charter and the two major human rights covenants -- the International Covenant on Civil and Political Rights ("CCPR") and the International Covenant on Economic, Social and Cultural Rights ("CESCR") -- and elaborated in the International Convention on the Elimination of all Forms of Racial Discrimination ("CERD"). More specific elaboration of minority rights are rooted in Article 27 of the CCPR, which holds:

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

General Comment No. 23, issued by the UN Human Rights Committee in 1994, elaborates the content of Article 27, underscoring the affirmative obligations placed on state parties:

Although the rights protected under article 27 are individual rights, they depend in turn on the ability of the minority group to maintain its culture, language or religion. Accordingly, positive measures by states may also be necessary to protect the

¹ See generally, Geoff Gilbert, "Autonomy and Minority Groups: A Right in International Law" 35 Cornell Int'l L.J. 307 (2002); Philip Alston "Peoples' Rights: Their Rise and Fall" in (P. Alston ed.) Peoples' Rights (2001)

identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion, in community with the other members of the group.²

The HRC has established a Working Group of the Sub-Committee on Prevention of Discrimination and Protection of Minorities to work in coordination with the Committee on the Elimination of Racial Discrimination (CERD) to monitor compliance of minority rights.³ In 1992, the United Nations General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (“Declaration on Minority Rights”). In the absence of a UN treaty devoted to minority rights, the Declaration represents a universal baseline standard for minority rights under international law.⁴ Standards are also articulated in the Council of Europe’s Framework Convention the Protection of Minorities and through European Union Partnership Agreements and accession criteria.⁵

European states have made additional progress in defining minority rights. The 1990 Copenhagen Document of the Organization for Security and Cooperation in Europe (the “Copenhagen Document”) represents the most comprehensive international standard in the field of minority rights. The OSCE has designated a High Commissioner for National Minorities to work with member states so that they satisfy criteria in the Copenhagen Document.⁶

Indigenous rights offer additional relevant guidance. Of these, the most advanced instruments are International Labor Organization (ILO) Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries (“ILO 169”), which came into force in 1991 and the UN Draft Declaration on the Rights of Indigenous Peoples. These instruments provide relevant guidance relating to appropriate levels of local control and suggest that the right of self-determination for certain “peoples” may be best met through autonomy arrangements falling short of secession and not posing a threat to territorial integrity.

International law requires that states take certain measures to effect (to those) substantive human rights obligations including minority rights. States are obligated to:

- (i) recognize minority rights in their national laws and policies;⁷
- (ii) adopt legislative and financial measures to ensure the effective implementation of minority rights;⁸
- (iii) adopt legislative and enforcement measures to ensure that minority rights are not threatened by the state or third parties;⁹

² HRC, General Comment 23, (1994) (GC#23), para 3.

³ <http://www.un.org/rights/dpi1774e.htm>

⁴ The UN Working Group on Minorities has provided an authoritative interpretation of the Declaration authored by the Working Group’s Chair Asbjorne Eide. (“WG Commentary”)

⁵ <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>;

⁶ <http://www.osce.org/hcnm>

⁷ CCPR, Article 2.2, CESCR, Article 1.2 Minority Rights Declaration.

⁸ CERD Article 2

⁹ GC #23

- (iv) provide effective remedies for violations of minority rights;¹⁰
- (v) undertake regular evaluations, planning and oversight to ensure accountability and progressive realization of minority rights.

Minority Rights Standards

Governance

Self-Governance

(a) States shall respect the right of persons belonging to minorities to participate effectively in decisions on the national and regional level concerning the minority to which they belong or the regions in which they live.¹¹

(b) States shall respect the rights of minorities to participate effectively in public life, including through elections, holding public office and participating in other political and administrative functions.¹²

(c) States shall respect the rights of minorities to assemble and form associations and political parties and thereby aggregate their interests to make the greatest impact on national and regional decision-making.¹³

(d) States shall duly consider the best manner of achieving effective political participation of minorities, including autonomy arrangements.¹⁴

(e) States shall respect the right of members of minorities to determine their own political status.¹⁵

(f) In planning and implementing national policies and programs or international programs of cooperation and assistance, states shall give due regard to the legitimate interests of persons belonging to minorities and shall establish advisory or consultative bodies involving minorities within appropriate institutional frameworks.¹⁶

Judiciary

(a) In applying national laws and regulations to certain minority populations, states shall give due regard to their customs or customary laws.¹⁷

¹⁰ CCPR Article 2.3.

¹¹ Declaration on Minority Rights Article 2(3); European Framework, Article 15; Copenhagen Document, Article 31;

¹² Declaration on Minority Rights Article 2, GC 23, para 7; WG Commentary para 36

¹³ Declaration on Minority Rights Article 2, GC 23, para 7; WG Commentary para 36

¹⁴ WG Commentary para 20;

¹⁵ CCPR Article 1.1; CESCR Article 1.1; Draft Declaration on Indigenous Rights, Article 3; European Framework Article 3

¹⁶ Declaration on Minority Rights Article 5(1); WG Commentary para 48; ILO 169, Article 33(2)(a)-(b)).

¹⁷ ILO 169, Article 8.

(b) States shall respect the right of certain minority populations to retain their distinctive juridical customs, traditions, and procedures and practices, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights.¹⁸

Police and Security

(a) States shall respect the rights of minorities to participate effectively in public security and policing functions.¹⁹

International Representation and Agreements

(a) States shall respect the right of certain minorities to the recognition, observance and enforcement of treaties, agreements, and other constructive arrangements concluded with states or their successors and to the resolution of conflicts arising out of these by competent international bodies agreed to by all parties concerned.²⁰

(b) States shall respect the right of minorities to establish and maintain unimpeded contacts among themselves within their country as well as across frontiers with citizens of other states with whom they share a common ethnic or national origin, cultural heritage, or religious belief.²¹

(c) States shall recognize the rights of members of minorities to form and join associations and trade unions.²²

Movement of Peoples

(a) States shall respect the right of members of minorities to liberty of movement within the country, the freedom to choose one's residence and the freedom to leave the country.²³

(b) States shall refrain from measures which alter the proportions of the population inhabited by persons belonging to minorities and are aimed at altering the rights enjoyed by such minorities.²⁴

(c) States shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.²⁵

¹⁸ ILO 169, Article 8(2); Draft Declaration on Indigenous Rights, Article 4.

¹⁹ As included in general right to participate in public life and administrative functions Declaration on Minority Rights Article 2, GC 23, para 7; WG Commentary para 36

²⁰ Draft Declaration on Indigenous Rights, Article 36).

²¹ CCPR, Article 22(1); Declaration on Minority Rights Article 2.5, Copenhagen Document, Article 32(4).

²² CCPR, Article 8(1)(b); Draft Declaration on Indigenous Rights, Article 18.

²³ CCPR, Article 12(1) and 12(2); Universal Declaration of Human Rights, Articles 13(1) and 13(2).

²⁴ European Framework, Article 17

²⁵ European Framework, Article 5

(d) States shall respect the right of members of certain minorities not to be relocated - except in exceptional circumstances - without their free and informed consent.²⁶

Culture

Education

(a) States shall recognize the right of members of minorities equal access to education and shall not establish or maintain separate educational systems on the basis of membership in a minority.²⁷

(b) States shall recognize the right of members of minorities to organize their own education programs, including the establishment and maintenance of schools.²⁸

(c) States should take measures in the field of education to encourage knowledge of the history, traditions, language, and culture of minorities.²⁹

Language

(a) States shall not discriminate against members of minority groups on the basis of language.³⁰

(b) States shall protect the existence and identity of linguistic minorities.³¹

(c) States shall take measures to encourage knowledge of, and the ability to take instruction in, the language of minorities existing within their territory.³²

(d) States shall recognize the right of members of minorities to establish and maintain educational systems providing education in their own languages and should to the extent possible provide subsidies for such schools.³³

(e) States shall adopt measures to inform members of minority groups of their rights and duties in their own language.³⁴

²⁶ ILO 169, Article 16(2).

²⁷ Covenant Against Discrimination in Education (“Covenant on Education”), Article 1; CERD, Article 5(e)(v).

²⁸ Covenant on Education, Article 5(1)(b); CESCPR, Article 13(3); CCPR, Article 18(3);

²⁹ Declaration on Minority Rights, Article 4(4). Convention on the Rights of the Child, Article 29.1(c).

³⁰ Universal Declaration of Human Rights, Article 2; CCPR Article 2(1).

³¹ Declaration on Minority Rights, Article 1(1).

³² Declaration on Minority Rights, Article 4.3 and 4(4).

³³ Declaration on Minority Rights, Article 4.3; WG Commentary para 63; Convention Against Discrimination in Education, Article 5(1)(c); Draft Declaration on Indigenous Rights, Article 15;

³⁴ Declaration on Minority Rights.

(f) States shall respect the rights of a member of a minority to be informed of any criminal charges and to defend him or herself against such charges in a language which he or she understands and to have the free assistance of an interpreter if necessary.³⁵

(g) In areas traditionally inhabited by substantial numbers of a particular minority, states shall endeavor to display traditional local names, street names and other topographical indications intended for the public in the minority language.³⁶

Religion

(a) States shall not discriminate against members of minorities on the basis of religion.³⁷

(b) States shall respect the right of members of minorities to manifest their religious beliefs and to establish religious institutions, organizations and associations.³⁸

(c) States shall respect the rights of members of minorities to establish and maintain contact with individuals and communities in matters of religion at the national and international levels;

(d) States shall respect the rights of members of minorities to make, acquire and use articles and materials related to religious beliefs.³⁹

Media

(a) States shall ensure by legislation that members of minority groups are not discriminated against in their access to the media.⁴⁰

(b) States shall adopt adequate measures to facilitate access to, and the possibility of creating and using, the media for members of minorities.⁴¹

Cultural Identity

(c) States shall respect the right of members of minorities to freely determine their cultural identity and to freely pursue their cultural development.⁴²

³⁵ European Framework, Article 10.

³⁶ European Framework, Article 11.

³⁷ CCPR, Article 2(1), 26; CESCR, Article 2; Declaration on Minority Rights, Article 2.1: Universal Declaration of Human Rights, Article 2.

³⁸ CCPR, European Framework, Article 8, Copenhagen Document, Article 33.

³⁹ The Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief. (UNG.A. Res. 36/55, UN GAOR, 36th Sess. (1981))

⁴⁰ European Framework Article 9.

⁴¹ European Framework Article 9.

⁴² CCPR, Article 1; CESCR, Article 1; Draft Declaration on Indigenous Rights, Article 3.

(d) States shall undertake to promote the conditions necessary for members of minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.⁴³

(e) States shall undertake initiatives in the field of education in order to encourage knowledge of the culture of minorities existing within their territory.⁴⁴

Economy

Economic Development

(a) States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development of their country.⁴⁵

Natural Resources

(a) States should consult and ensure the effective participation of members of a minority with regard to the development of land and natural resources which affect them.⁴⁶

(b) States should respect the rights of certain minorities to own, develop, control and use the natural resources on those territories that they have traditionally occupied.⁴⁷

(c) In cases in which the State retains the ownership of mineral or sub-surface resources of lands occupied by certain minorities, governments shall consult them before exploiting such resources and such minorities should benefit in any exploitation of such resources.⁴⁸

Property and land management

(a) States shall recognize the rights of ownership and possession of certain minorities over the lands which they have traditionally occupied and shall penalize the unauthorized intrusion on such lands.⁴⁹

(b) States shall respect the rights of collective ownership and use of land which are established by the customs of certain minority populations.⁵⁰

⁴³ CESCR, Article 15; Convention on the Elimination of Racial Discrimination, Article 2(2); ILO Convention no. 107, Article 27(2)(a); ILO Convention no. 169, Article 4.1; UN Declaration on the Rights of Minorities, Article 1(1), Article 4.2; Copenhagen Document, Article 33, 35.

⁴⁴ UN Declaration on the Rights of Minorities, Article 4(4).

⁴⁵ Declaration on Minority Rights Article 4.5.

⁴⁶ Declaration on Minority Rights Article 2.3; WG Commentary para 71; ILO, CCPR 27, GC 23#7, ILO Convention No. 169, Article 1(1),

⁴⁷ Draft Declaration on Indigenous Rights, Articles 26 and 28.

⁴⁸ ILO 169, Article 15.2.

⁴⁹ ILO 169 Articles 17 and 18; CCPR Article 27 and GC#23 para 3.2.

⁵⁰ ILO 169 Articles 13 and 17, Draft Declaration on Indigenous Rights, Article 13.

AUTONOMY OPTIONS

GOVERNANCE

Governance protects the rights of citizens and creates an environment for cultural promotion. As the guardians of autonomy, local self-governing institutions give voice to local concerns by institutionalizing their representation and upholding local interests. Self-governing institutions can include a local executive, legislature, judiciary, and mechanisms to ensure security such as the local police. Autonomous entities may also have international representation and participate in international agreements.

SELF-GOVERNANCE

Local Executive

Chief Executive:

- The local executive is independent of the State.⁵¹
- The local executive is under the supervision of the State.⁵²
- The executive is appointed by the State.⁵³

⁵¹ Åland Islands (Finland): See the Åland Islands, where executive power is held by the Executive Council, headed by a prime minister. Basque Country (Spain): See the Basque Country, where executive power is vested in the president of Basque.

Catalonia (Spain): See Spain's 1979 *Autonomy Statute of Catalonia*, Article 29, which holds that executive power in Catalonia is held by the president of the Catalanian government and with an Executive Council.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 1(2) and 3, which provides that executive power is held by an Executive Council, headed by a prime minister.

Micronesia (United States): See Micronesia's 1979 Constitution, Article X Section 1, which provides for a Micronesian president as the executive of the Micronesian government.

Navajo (United States): See the Navajo reservation, where the executive power of the reservation is held by the Navajo Tribal Council, headed by a chairman.

Puerto Rico (United States): See Puerto Rico's 1952 Constitution, Article IV, Sections 1 and 2, which holds that the head of the executive branch of the Puerto Rico government is the governor.

⁵² Cook Islands (New Zealand): See the Constitution of the Cook Islands, Article 13(2), which provides for a prime minister of the Cook Islands, elected from the Cook Islands' parliament and appointed by the representative of the Queen of England.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 14(1),(2),(4), and (8), which states that Gagauzia's highest official is the governor, elected directly by the people of Gagauzia, who, once elected, is also a member of the government of Moldova, and must report daily to the Moldovan legislature.

Jammu and Kashmir (India): See India's 1952 *Ministry of Law and Order No. C O 44*, which states that the head of State in Jammu and Kashmir shall be a governor, appointed by the president of India, on the recommendation of the legislature of Kashmir. Jammu and Kashmir also has a Chief Minister, who is the head of the Council of Ministers, and who advises the governor. The governor is obliged to act on the advice of the Chief Minister.

⁵³ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 45(1), which states that the executive of Gibraltar is the Queen of England, whose authority is vested in the governor of Gibraltar.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, where the executive is the sovereign of Netherlands.

- The executive is the chairman of a regional council, whose members are appointed by both the autonomous entity and the State.⁵⁴

Executive Body:

- The separate local executive body for all powers of the autonomous entity.⁵⁵
- The separate local executive body is under the supervision of the State.⁵⁶
- The regional council is appointed by representatives for the autonomous entity and by the State.⁵⁷
- There is no local executive body for the autonomous entity.⁵⁸

Make-up of the Executive Body:

- Members of the executive must be minorities.
- Members of the executive body must be persons who have lived in the autonomous entity for a specified period.
- Membership of the executive body is subject to quotas.⁵⁹

⁵⁴ Chittagong Hill Tracts (Bangladesh): See the 1997 Peace Accord between India, Bangladesh and refugee leaders of the Chittagong Hill Tracts, Article C(4), which states that the chairman of the Chittagong Hill Tracts Regional Council assumes the executive position for affairs of the Chittagong Hill Tracts, and members of the Regional Council are appointed by representatives of the Hill Tracts indigenous people and the Bangladesh government.

⁵⁵ Åland Islands (Finland): See the Åland Islands, where the Executive Council acts independently of the State on all matters reserved for the autonomous entity under the *Act on the Autonomy of Åland*.

Basque Country (Spain): See Basque Country, where executive power is vested in both the Executive Council and the Basque President.

Catalonia (Spain): See Spain's 1979 *Autonomy Statute of Catalonia*, Article 29, which holds that executive power is held by an Executive Council and by the president of the Catalanian government.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 15(1), which provides for an Executive Committee to assist the governor of Gagauzia.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 1(2), which holds that executive power in Greenland shall be held by the Executive Council.

Jammu and Kashmir (India): See Jammu and Kashmir, where the local executive body is the Council of Ministers.

Micronesia (United States): See Micronesia's 1979 Constitution, Article X Section 1, which provides for the executive body of the Micronesian government

Navajo (United States): See the Navajo reservation, where the executive power of the reservation is held by the Navajo Tribal Council.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, which has a local executive body, the Netherlands Antilles Council of Ministers.

⁵⁶ Cook Islands (New Zealand): See the Constitution of the Cook Islands, Article 22(1), which provides for a Cook Islands Executive Council, made up of the representative of the Queen of England and parliament members, and may only be convened by the Queen's representative or the prime minister.

⁵⁷ Chittagong Hill Tracts (Bangladesh): See the 1997 Peace Accord between India, Bangladesh and refugee leaders of the Chittagong Hill Tracts, Article C(1), which states that the Chittagong Hill Tracts Regional Council oversees and coordinates administration, development, and law and order for the Chittagong Hill Tracts. Members of the Regional Council are appointed by representatives of the Hill Tracts indigenous people and the Bangladesh government.

⁵⁸ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 46, which provides for a Gibraltar Council, made up of representatives of the United Kingdom.

⁵⁹ Chittagong Hill Tracts (Bangladesh): See the 1997 Peace Accord between India, Bangladesh and refugee leaders of the Chittagong Hill Tracts, Article C(4), which states that 15 out of the 22 members of the Chittagong Hill

- No restrictions exist on membership in the executive body.

Selection of the Executive:

- The local executive is elected by the citizens of the autonomous entity.⁶⁰
- The local executive is selected by the government of the autonomous entity with no interference by the State.⁶¹
- The local executive is selected by the local government of the autonomous entity in a process that is supervised by the State.⁶²
- The local executive is selected by the State.⁶³

Executive Powers:

- The autonomous entity determines the powers of the executive.⁶⁴
- The executive body presents bills to the autonomous government, without interference from the State.⁶⁵
- The State determines the powers of the executive.

Tracts Regional Council must be tribal members, and the remaining members must be non-tribals or Bengali settlers.

⁶⁰ Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 14(2), which states that the governor of Gagauzia shall be elected by the people of Gagauzia.

Micronesia (United States): See Micronesia's 1979 Constitution, Article VI, which states that elections of federal officials shall be conducted by popular vote.

Navajo (United States): See the Navajo reservation, where the Navajo Tribal Council is elected by popular vote.

Netherlands Antilles (Netherlands): See the *Charter for the Kingdom of the Netherlands*, Article 46, which holds that locally elected officials in the Netherlands Antilles are elected by residents of the Netherlands Antilles.

Puerto Rico (United States): See Puerto Rico's 1952 Constitution of the Commonwealth of Puerto Rico, Article IV, Sections 1 and 2, which holds that the governor shall be directly elected by the people of Puerto Rico.

⁶¹ Åland Islands (Finland): See the Åland Islands, where the Executive and the Executive body are selected from members of the legislature, and then must be accepted by a vote in the legislature.

Basque Country (Spain): See Basque Country, where the president of Basque is elected by members of the Basque parliament.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 1(2), which holds that the executive is elected by the legislature.

⁶² Catalonia (Spain): See Spain's 1979 *Autonomy Statute for Catalonia*, Article 36(1), which states that the president of Catalonia shall be selected from the members of the Catalonian parliament, and formally appointed by the King of Spain.

⁶³ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 45(1), which states that the executive of Gibraltar is the Queen of England, whose authority is vested in the governor of Gibraltar.

⁶⁴ Catalonia (Spain): See, Spain's 1979 *Autonomy Statute of Catalonia*, Article 37(1), which states that executive powers shall be determined by the Law of Catalonia.

Jammu and Kashmir (India): See Jammu and Kashmir, where local executive powers are determined by the local legislative powers.

⁶⁵ Åland Islands (Finland): See the Åland Islands, where the Åland Islands' Executive Council is responsible for presenting bills to the legislature.

Micronesia (United States): See Micronesia, where the executive presents bills to the local legislature, without interference from the United States.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 17(2), which gives the Executive Committee the right to submit legislation to the Gagauz legislature.

Governor:

- A governor, with limited powers is appointed by the State with the approval of the autonomous entity.⁶⁶
- A governor with executive powers is appointed by the State, subject to consultation with the autonomous entity.⁶⁷
- A governor with executive powers is appointed by the State.⁶⁸
- No governor exists.

Legislative

- The local legislative body is independent of the State.⁶⁹
- The local legislative body is under the supervision of the State.⁷⁰
- The local legislative body includes representatives of the State and locally elected representatives.⁷¹
- No separate local legislative body exists.⁷²

⁶⁶ Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 1, which provides that the Queen of Denmark shall appoint a representative, the High Commissioner, to serve as governor of Greenland. The High Commissioner may only participate in local legislative debates following an invitation by the Greenland legislature.

⁶⁷ Åland Islands (Finland): See Finland's 1991 *Act on the Autonomy of Åland*, Section 52, which holds that the State shall appoint a governor to the Åland Islands, but may do so only after consulting with the Speaker of the Åland Islands executive.

Jammu and Kashmir (India): See India's 1952 *Ministry of Law Order No. C O 44*, which states that the government of India shall appoint a governor on the recommendation of the legislature of Jammu and Kashmir.

⁶⁸ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 45(1), which states that the executive of Gibraltar is the Queen of England, whose authority is vested in the governor of Gibraltar.

⁶⁹ Basque Country (Spain): See Spain's 1979 *Statute of Autonomy for Basque Country*, Article 25(1), which states that the legislative power in Basque Country is exercised by the Basque parliament.

Catalonia (Spain): See Spain's 1979 *Autonomy Statute for Catalonia*, Article 30(1), which states that legislative authority in Catalonia is vested with the Catalanian parliament.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 7, which provides for a National Assembly, the legislative body of the Gagauz government.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 4, which states that legislative power in Greenland shall be held by a 31 member legislature (the "Landsting").

Jammu and Kashmir (India): See Jammu and Kashmir, which has its own separate legislature.

Micronesia (United States): See Micronesia's 1979 Constitution, Article IX Section 1, which states that the legislative body of Micronesia is the Congress of Micronesia.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, which has a local parliament, the Staten, that handles matters for which it has authority.

Puerto Rico (United States): See Puerto Rico's 1952 Constitution of the Commonwealth of Puerto Rico, Article IV, Sections 1 and 2, which provides for a bicameral legislature.

⁷⁰ Cook Islands (New Zealand): See the Constitution of the Cook Islands, Article 27(2), which states that legislative authority for the Cook Islands is located in the Cook Islands parliament, but all bills must be approved by the representative of the Queen of England before they can become law.

⁷¹ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Articles 24 and 25, which states that the legislature of Gibraltar shall consist of the Gibraltar Assembly and the governor, and the Gibraltar Assembly will be made up of representatives of the United Kingdom, appointed by the governor, as well as 15 other members elected by popular vote.

⁷² Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, where all legislative power for the Chittagong Hill Tracts is held by the Bangladesh government.

Selection of local legislature:

- The local legislature is elected directly by the persons eligible to vote in the autonomous entity.⁷³
- The local legislature is made up of elected officials and representatives appointed by the State.⁷⁴
- The local legislature is made up of representatives appointed by the State.

Legislative Power:

- The local legislature is independent of the State.⁷⁵
- The local legislature is under the supervision of the State.⁷⁶
- The local legislature is independent of the State, and where local legislative acts conflict with State legislative acts, the State acts prevail;⁷⁷

⁷³ Åland Islands (Finland): See Finland's 1991, *Act on the Autonomy of Åland*, Section 13, which holds that the legislature of the Åland Islands shall be elected by secret ballot, with universal suffrage for persons of the Åland Islands over 18 years.

Basque Country (Spain): See Spain's 1979 *Statute of Autonomy for Basque Country*, Articles 25(1) and 26(1), which states that the Basque Parliament is elected directly by the persons of Basque eligible to vote.

Cook Islands (New Zealand): See the Constitution of the Cook Islands, Article 39(1), which states that the parliament of the Cook Islands shall be elected by the persons of the Cook Islands eligible to vote.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 8(1), which holds that members of Gagauzia's legislative body, the National Assembly, shall be elected by the Gagauz people eligible to vote.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 2(1), which states that Greenland's local legislature shall be elected directly by the persons of Greenland eligible to vote.

Micronesia (United States): See Micronesia, where local government officials are elected by direct popular vote by the persons of Micronesia eligible to vote.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, where members of the local legislative parliament are elected by the persons of Netherlands Antilles eligible to vote.

Puerto Rico (United States): See Puerto Rico's 1952 Constitution of the Commonwealth of Puerto Rico, Article IV, Sections 1 and 2, which holds that the Puerto Rico legislature shall be directly elected by the persons of Puerto Rico eligible to vote.

⁷⁴ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Articles 24 and 25, which states that the legislature of Gibraltar shall consist of the Gibraltar Assembly and the governor, and the Gibraltar Assembly will be made up of representatives of the United Kingdom, appointed by the governor, and 15 other members elected by popular vote by persons of Gibraltar eligible to vote.

⁷⁵ Catalonia (Spain): See Spain's 1991 *Autonomy Statute for Catalonia*, Article 30(1), which states that the Catalanian parliament shall exercise the legislative powers assigned to it under the Spanish Constitution and the *Autonomy Statute for Catalonia*.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, 12(2), which states that the Gagauz National Assembly has the power to make laws in five clearly defined areas.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 4 and Schedule, which indicates that the Greenland legislature shall have independent legislative authority.

Micronesia (United States): See Micronesia, where the local legislature, the Congress of Micronesia, has legislative authority independent from the United States government.

⁷⁶ Cook Islands (New Zealand): See the Constitution of the Cook Islands, Article 44(1), which states that all bills passed by the parliament must be approved by the representative of the Queen of England.

Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 33, which states that laws passed by the Gibraltar legislature must be approved by the Queen of England or the governor of Gibraltar on the Queen's behalf.

⁷⁷ Jammu and Kashmir (India): See Jammu and Kashmir, where the Kashmiri legislature may legislate on all issues for the region, but where legislation conflicts with Indian government legislation, the Indian legislation prevails.

- The autonomous entity has no legislative power;⁷⁸

Veto Power:

- The State has veto power over any laws passed by the autonomous entity that exceed the powers given to the autonomous entity;⁷⁹

Judiciary

- The local judiciary is independent of the State for all matters where jurisdiction is reserved for the autonomous entity.⁸⁰
- The local judiciary is under the supervision of the State.⁸¹
- The autonomous entity has no separate judiciary, but there does have local assessors, for minor local cases.⁸²
- The autonomous entity has no separate judiciary, but it has some authority over State judicial bodies in the autonomous entity.⁸³

⁷⁸ Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, where all legislative power is held by the Bangladesh government.

⁷⁹ Åland Islands (Finland): See the Åland Islands, where all laws passed by the Åland Islands government that exceed the powers vested with the Åland Islands government by the *Act on the Autonomy of Åland* must be approved by the Finnish President, who has final veto power.

⁸⁰ Micronesia (United States): See Micronesia's 1979 Constitution, Article XI Section 1, which holds that the Micronesia shall have its own separate judiciary.

⁸¹ Cook Islands (New Zealand): See the Constitution of the Cook Islands, Article 47(2) and Article 52, which provides for a separate Cook Islands' court system, in which the Chief Justice of the High Court and one or more judges in the High Court are appointed by the representative of the Queen of England.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act*, Article 20(1) and (2), which provides for a separate Gagauz judiciary, in which judges are appointed by the President of Moldova on the recommendation of the Gagauz National Assembly.

Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 56, which provides for a separate Gibraltar judiciary, over which the Queen of England has final jurisdiction.

Jammu and Kashmir (India): See Jammu and Kashmir, which has a separate judiciary, and the judiciary's high court judges are appointed by the prime minister of India after consultation with the chief minister of Jammu and Kashmir and the chief justice of India.

Navajo (United States): See the *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9 (1987), which affirms that tribal courts shall be used for matters concerning the Navajo nation, and questions concerning tribal members will only be addressed by non-tribal courts after all tribal remedies are exhausted.

Puerto Rico (United States): See Puerto Rico's 1952 Constitution of the Commonwealth of Puerto Rico, Article V, Sections 1 and 2, which provides for a separate judicial system for Puerto Rico, where the Supreme Court of Puerto Rico is the court of last resort. However, decisions by the Puerto Rico Supreme Court may be reviewed by the United States Supreme Court.

⁸² Greenland (Denmark): See Greenland, where there is no separate judiciary, but there are 18 court districts overseen by local assessors, handling civil and criminal cases.

⁸³ Basque Country (Spain): See the Basque Country, where the territory has no separate judiciary and the islands are covered under the Spanish judicial system, but the Basque government participates in the appointments of judges for Basque Country courts. Under the *Statute of Autonomy of the Basque country*, Article 34(1), a special High Court, under the authority of the Spanish government, is the supreme court exclusively for Basque Country issues.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, where the justices of the Joint High Courts of the Netherlands Antilles are appointed by the Netherlands government, with the consent of the governments of the Netherlands Antilles.

- No separate judiciary exists.⁸⁴

Administration of Justice

- Administration of justice is the responsibility of the autonomous entity.⁸⁵
- Administration of justice in the autonomous entity is in accordance with the laws of the State.⁸⁶
- Administration of justice is the responsibility of the State.⁸⁷

Public Security

- The autonomous entity is responsible for public security and safety.⁸⁸
- The State is responsible for public security and safety.⁸⁹
- The autonomous entity and the State share responsibility for public security and safety.⁹⁰
- The autonomous entity has legislative authority over public security and safety.⁹¹

⁸⁴ Åland Islands (Finland): See the Åland Islands, which is under the Finnish judicial system.

⁸⁵ Basque Country (Spain): See Basque Country, where the Basque government administers justice.
 Cook Islands (New Zealand): See the Cook Islands, which has responsibility for the administration of justice.
 Micronesia (United States): See Micronesia, where the authority is vested with the Micronesian government.
 Navajo (United States): See the Navajo, where tribal courts are responsible in the Navajo reservation.

⁸⁶ Åland Islands (Finland): See the Åland Islands, where the administration of justice is handled in accordance with the laws of Finland.

Netherlands Antilles (Netherlands): See the *Charter for the Kingdom of the Netherlands*, Article 39(1), which holds that the administration of justice in Netherlands Antilles must be regulated as close as possible to that of the Netherlands.

⁸⁷ Greenland (Denmark): See Greenland, where the administration of justice is the responsibility of Denmark.

⁸⁸ Åland Islands (Finland): See the Åland Islands, which has responsibility for their own public security and safety.

Basque Country (Spain): See Spain's 1979 *Statute of Autonomy for Basque Country*, Article 25(1), which states that internal police forces are administered by the Basque government.

Chittagong Hill Tracts (Bangladesh): See the 1997 Peace Accord, Article C(9)(a) and (c), which states that the Chittagong Hill Tracts Regional Council has authority over law and order.

Cook Islands (New Zealand): See the Cook Islands, where the Cook Islands government maintains law and order on the Islands.

Jammu and Kashmir (India): See India's Constitution, State List, which holds that the police force in Jammu and Kashmir is controlled by the Kashmiri government.

Micronesia (United States): See Micronesia's 1979 Constitution, Article IX Section 2, which states that the government of Micronesia has authority over policing and security for Micronesia.

Navajo (United States): See Navajo, which maintains its own police force for law and order on the reservation.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, which has its own police force.

Puerto Rico (United States): See Puerto Rico, which has its own police force and national guard.

⁸⁹ Gibraltar (United Kingdom): See the Constitution of Gibraltar, Article 73(1)(a), which states that the governor of Gibraltar shall have responsibility for appointing a police commissioner.

⁹⁰ Catalonia (Spain): See Catalonia, where the Catalanian government is provided the right to create its own police force, but the Spanish government oversees the recruitment and training of this force, and a State security force has responsibility for nationwide investigations including within Catalonia.

Greenland (Denmark): See Greenland, where the police force is composed of Danes and Greenlanders, and formal responsibility for policing is given to the Danish government.

⁹¹ Åland Islands (Finland): See Finland's 1991 *Act on the Autonomy of Åland*, Section 18(6), which states that the Åland Islands shall have legislative control over all matters of public order and security.

- The State has legislative authority for public security and safety.⁹²

International Representation

Participation in International Organizations:

- The autonomous entity may seek membership in international organizations.⁹³
- The autonomous entity may have representatives only in certain international organizations.⁹⁴
- The autonomous entity is not allowed to be a member of any international organizations.⁹⁵
- The autonomous entity has its own relations with international organizations, though no laws exist regulating this right.⁹⁶

Movements of Peoples

- The autonomous entity has authority over movement of persons to/from the autonomous entity.⁹⁷

Micronesia (United States): See Micronesia's 1979 Constitution, Article IX Section 2, which holds that the Micronesian Congress has the power to define national crimes and prescribe penalties.

⁹² Jammu and Kashmir (India): See India's Constitution, Concurrent List, which holds that procedure for law and order is under the jurisdiction of the Indian government.

⁹³ Cook Islands (New Zealand): See the Cook Islands, which is a member to multiple international organizations.

Micronesia (United States): See Micronesia, which has chosen to be a member of numerous international organizations including the United Nations. The United States has agreed to support any application for membership submitted by Micronesia to any international organization.

⁹⁴ Åland Islands (Finland): See the Åland Islands, which has representation in the Nordic Council.

Gibraltar (United Kingdom): See Gibraltar, which is a member of the European Community and the sub-bureau of Interpol, but for all other international organizations it is represented through the United Kingdom.

⁹⁵ Basque Country (Spain): See Basque Country, where the Spanish government has exclusive control over all international relations, including membership in international organizations.

Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, which has no authority to join international organizations.

Gagauzia (Moldova): See Gagauzia, which has no authority to join international organizations.

Jammu and Kashmir (India): See Jammu and Kashmir, which has no authority to join international organizations.

Navajo (United States): See the Navajo, which has no authority to participate in international organizations.

⁹⁶ Catalonia (Spain): See Catalonia, which has direct relations with the European Community and UNESCO even though the Spanish Constitution reserves authority for all foreign affairs to the Spanish government.

Netherlands Antilles (Netherlands): See Netherlands Antilles, which participates in international organizations, though the Netherlands has authority over foreign affairs.

Puerto Rico (United States): See Puerto Rico, which has relationships with a number of international organizations, though the United States government has authority over Puerto Rico's foreign policy and there are no laws giving the island this right.

⁹⁷ Jammu and Kashmir (India): See Jammu and Kashmir, where the Kashmiri government has authority to control movement of peoples to and from other parts of India into Jammu and Kashmir.

Micronesia (United States): See the *Compact of Free Association*. August 24, 1989, U.S. Fed-St of Micronesia T.I.A.S., No. 11,660, Article V, Section 251, which states that Micronesia shall have control over all immigration and emigration issues concerning Micronesia.

Navajo (United States): See the Navajo, which has the right to control entry into and residence within the reservation. See also the Navajo Trib. Code Tit. 17, Ch. 5, Subch. 5 (Supp.1984-85), which holds that the right to exclude non-Navajos is part of the sovereignty of the Navajo nation.

- The autonomous entity and the State share authority over movement of persons.
- The State has authority over movement of persons.

ECONOMY

Economy activities provide the resources necessary for public well-being and to support functioning of an autonomous entity. Control over the economic affairs may be handled by the State, provided to the government of the autonomous entity, or jointly handled by both. The development of natural resources, taxes and revenue, trade, employment, and ownership of land are the foundations of an economy. Varying degrees of control over these areas dictates the level of autonomy.

Natural Resources

Development of natural resources:

- The autonomous entity has authority over all its natural resources.⁹⁸
- The autonomous entity has authority over specific natural resources.⁹⁹
- The autonomous entity has authority over specific natural resources, and shares rights over other resources with the State.¹⁰⁰
- The development of natural resources requires an agreement between the autonomous entity and the State.¹⁰¹
- The autonomous entity and the State have joint authority over natural resources.¹⁰²
- The State has authority over natural resources.¹⁰³

⁹⁸ Cook Islands (New Zealand): See the Cook Islands, which have exclusive right over management of its natural resources.

Navajo (United States): See the Navajo, which as authority over its natural resources.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, which has control over its natural resources.

Puerto Rico (United States): See Puerto Rico, which has control over its natural resources.

⁹⁹ Basque Country (Spain): See the Spanish Constitution, Article 10(8-11), which states that Basque Country shall have authority over woodland and forestry, livestock, agriculture, fishing, shellfish, hunting, hydraulic projects, canals and irrigation within Basque Country.

Catalonia (Spain): See Spain's *Autonomy Statute for Catalonia*, Article 9(9, 10, and 17), which holds that Catalonia has authority over territorial and coastal planning, woodlands, forestry resources, livestock, protected nature areas, mountain zones, fishing, shellfish, aquaculture, and hunting.

¹⁰⁰ Åland Islands (Finland): See Finland's *Act on the Autonomy of Finland*, Section 18(17 and 19), 19 and 27(17), which hold that the Åland Islands government has authority over agricultural production, farming, forestry, hunting and fishing, farmlands, forests, and fishing waters, and the Åland Islands government and the Finnish government share authority over mineral finds and mining.

¹⁰¹ Greenland (Denmark): See Denmark's 1978 Greenland Home Rule Act, Section 8(1), which holds that Greenland has fundamental rights to its natural resources, and any development of natural resources must be agreed between the Greenland government and the Danish government. Additionally, a joint committee of representatives from the Greenland government and the Danish government advise on issues regarding natural resources.

¹⁰² Jammu and Kashmir (India): See India's Constitution, Union List and State List, which state that the management of natural resources in Jammu and Kashmir shall be the joint responsibility of the Kashmir government and the Indian government.

¹⁰³ Faroe Islands (Denmark): See the Faroe Islands, where the Danish government has control over the Islands' natural resources.

Taxes and Revenue

Tax collection:

- The autonomous entity may levy taxes and the State does not levy any additional tax.¹⁰⁴
- The autonomous entity may levy taxes and the State levies additional taxes.¹⁰⁵
- The autonomous entity has authority to levy specific taxes.¹⁰⁶
- The autonomous entity may levy taxes, subject to the laws of the State.¹⁰⁷
- The autonomous entity has limited authority to levy taxes, and certain revenues from taxes levied by the State are returned to the autonomous entity.¹⁰⁸
- The State has authority to levy specific taxes, and the autonomous entity has the right to levy all other taxes.¹⁰⁹
- The autonomous entity levies certain taxes and the State may levy additional taxes. Additionally, the autonomous entity receives additional grants, loans, and subsidies from the central government.¹¹⁰

¹⁰⁴ Basque Country (Spain): See Basque Country, which has the authority to levy all taxes.

Puerto Rico (United States): See the Constitution of the Commonwealth of Puerto Rico, Article VI, Sections 2 and 3, which hold that Puerto Rico has the right to levy its own taxes. Puerto Ricans are not subject to United States federal taxes.

Micronesia (United States): See the Federated States of Micronesia Constitution, Article VIII, Section 3, which holds that Micronesia may impose income taxes. See also the *Compact of Free Association*, Aug. 24, 1989, U.S.-Fed. St. of Micronesia, T.I.A.S., No. 11,660, Article V, Section 252, which holds that Micronesian citizens are exempt from United States taxes

Cook Islands (New Zealand): See the Cook Islands, which levies its own taxes.

Netherlands Antilles (Netherlands): See the Netherlands Antilles, which levies taxes, and the Netherlands does not levy any additional taxes.

¹⁰⁵ Faroe Islands (Denmark): See Denmark's 1978 *Home Rule Act*, Section 6, which states the Faroese government administers taxes, and the Danish government levies additional taxes.

Greenland (Denmark): See Denmark's 1978 *Greenland Home Rule Act*, which states that the Greenland government levies taxes and the Danish government levies additional taxes.

¹⁰⁶ Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, which has authority to impose taxes and fees for registration fees for non-mechanical transport, the purchase and sale of goods, holdings from land and buildings, the sale of domestic animals, fees for cases of social justice, holding tax on governmental and non-governmental industry, royalty from forest resources, supplementary tax from entertainment, royalties from the exploration and extractions of mineral resources, tax on business, tax on the lottery, and tax on fishing.

¹⁰⁷ Catalonia (Spain): See the Spanish Constitution, Article 133(1-2), which holds that while the Spanish government has the original power to levy taxes, autonomous entities such as Catalonia shall have the right to levy certain taxes in accordance with the Constitution. Additionally, the 1980 *Organic Law of the Financing of the Autonomous Communities* provides a mechanism for the autonomous entities of Spain to coordinate their tax policy with the Spanish government.

¹⁰⁸ South Tyrol (Italy): See South Tyrol, which has limited authority over taxes, and revenues from taxes levied by the Italian government are automatically applied to South Tyrol in accordance with the *Autonomy Statute*.

¹⁰⁹ Jammu and Kashmir (India): See India's Constitution, Union List, which specifies the areas where India may levy taxes for Jammu and Kashmir, and Jammu and Kashmir shall have authority to levy all other taxes.

¹¹⁰ Åland Islands (Finland): See Finland's *Act on the Autonomy of Finland*, Sections 45-51 and 18(5), which holds that the Åland Islands may levy taxes on income, trade, entertainment and municipal taxes. The Finnish government also levies additional taxes, and provides the islands with special grants and subsidies.

- The autonomous entity levies taxes, and the State imposes taxes on the autonomous entity, the collection of which is delegated to the autonomous entity.¹¹¹
- The autonomous entity has no right to levy tax.¹¹²

Customs:

- The autonomous entity has authority over customs.¹¹³
- The State has control over customs, and must inform the autonomous entity of State legislation which affects customs matters of the autonomous entity.¹¹⁴
- The autonomous entity and the State have joint control over customs.¹¹⁵
- The autonomous entity has no explicit authority over customs.¹¹⁶

Trade

Foreign Trade:

- The autonomous entity has authority over its foreign trade.¹¹⁷
- The autonomous entity has authority to handle limited issues related to foreign trade.¹¹⁸

¹¹¹ This model was practiced by Ethiopia for the then autonomous region of Eritrea (Eritrea became independent in 1994). The regime was established by a 1950 General Assembly of the United Nations resolution (General Assembly Resolution 390A (V)).

¹¹² Northern Ireland (United Kingdom): See Northern Ireland, which has no right to levy taxes; all taxes are levied by the United Kingdom.

¹¹³ Cook Islands (New Zealand): See the Cook Islands, which has authority over customs.
Micronesia (United States): See Micronesia, which has authority over customs.

¹¹⁴ Basque Country (Spain): See Spain's 1979 *Statute of Autonomy of the Basque Country*, Article 20(6), which holds that the Spanish government must inform the Basque government of any legislation that affects the customs of Basque Country.

¹¹⁵ Faroe Islands (Denmark): See the Faroe Islands, where the Faroe Islands government and the Danish government have joint authority over imports and exports.

¹¹⁶ Åland Islands (Finland): See Finland's *Act on the Autonomy of Finland*, Section 27(41), which holds that the Finnish government maintains border guards for the Åland Islands, and the Åland Islands have no authority over customs.

Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, which has no authority over customs.

Greenland (Denmark): See Greenland, where the Danish government controls customs as it would any other part of Denmark.

Jammu and Kashmir (India): See India's Constitution, Union List, which states that India has sole authority over customs for the Indian territory, including Jammu and Kashmir.

Northern Ireland (United Kingdom): See Northern Ireland, where the United Kingdom controls the customs of the region.

Puerto Rico (United States): See Puerto Rico, where United States laws apply to customs.

South Tyrol (Italy): See South Tyrol, where the Italian government has authority over customs for the region.

¹¹⁷ Micronesia (United States): See Micronesia, which has authority over its own foreign trade.

¹¹⁸ South Tyrol (Italy): See the Italy's *Autonomy Statute*, Article 8(20), which holds that South Tyrol shall be given authority over issues of foreign trade related to the promotion of tourism.

- The autonomous entity has authority to conduct designated foreign trade activities, and the State and the autonomous entity must consult with the other on issues of foreign trade that affect the other party.¹¹⁹
- The autonomous entity maintains representative offices for the purpose of promoting trade.¹²⁰
- The State authorizes the autonomous entity to sign certain categories of trade agreements with states or international organizations.¹²¹
- The State has authority over foreign trade.¹²²

Banking:

- The autonomous entity regulates all banks and financial institutions.
- The autonomous entity must cooperate with the State with regard to problems involving banking and foreign exchange policy.¹²³
- The State regulates all banks and financial institutions for the autonomous entity.¹²⁴

Currency:

- The autonomous entity has its own currency, and has authority over its currency.
- The autonomous entity has its own currency, and must cooperate with the State with regard to its currency.¹²⁵
- The autonomous entity has the right to issue its own currency upon agreement with the State.¹²⁶
- The autonomous entity uses its own currency and the State currency.¹²⁷

¹¹⁹ Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, Section 13 and Section 16(2) which holds that the Greenland government and the Danish government must consult with the other on any foreign trade agreement which affects the interests of the other entity.

¹²⁰ Catalonia (Spain): See Catalonia, which maintains representative offices in other countries to promote trade and tourism.

¹²¹ Palestine (Israel): See the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* (1995) (Article 9(5)), which provides the right of Palestine to manage certain categories of foreign trade.

¹²² Basque Country (Spain): See Spain's Constitution, Article 149(13), which states that the Spanish government has authority over foreign trade for all of Spain.

¹²³ Netherlands Antilles (Netherlands): See the *Charter of the Kingdom of the Netherlands Antilles*, Article 3(c)(1), which holds that the Netherlands Antilles government must cooperate with the Netherlands government regarding problems with the banking system and foreign exchange.

¹²⁴ Jammu and Kashmir (India): See India's Constitution, Union List, which holds that India shall regulate all banks and financial institutions in Indian territory, including in Jammu and Kashmir.

¹²⁵ Netherlands Antilles (Netherlands): See the Netherlands Antilles, where the official currency is the Netherlands Antilles gulden. See also the *Charter of the Kingdom of the Netherlands Antilles*, Article 3(c)(1), which holds that the Netherlands Antilles government must cooperate with the Netherlands government regarding problems with its currency.

¹²⁶ Micronesia (United States): See the *Compact of Free Association*, Aug. 24, 1989, U.S.-Fed. St. of Micronesia, T.I.A.S., No. 11,660, Article V, Section 251, which holds that Micronesia may issue its own currency, the terms of which must be agreed with the government of the United States. Micronesia elects to use the United States dollar.

¹²⁷ Cook Islands (New Zealand): See the Cook Islands, where the official currencies are the Cook Islands dollar and the New Zealand dollar.

- The autonomous entity uses its own currency as well as the State currency, and the State prints and distributes both currencies.¹²⁸
- The autonomous entity uses the State currency, and the State has sole control over the currency.¹²⁹

Employment

Authority over labor matters:

- The autonomous entity has authority over labor matters.¹³⁰
- The autonomous entity has the right to implement preferential hiring policies.¹³¹
- The autonomous entity and the State share authority over labor matters.
- The State has authority over labor matters.

Property and Land Ownership

Land ownership

- Only citizens of the autonomous entity may own land in the autonomous entity.¹³²

¹²⁸ Faroe Islands (Denmark): See the Faroe Islands, where the official currencies are the Faroe Islands krone and the Danish krone, both printed by the Danish government.

¹²⁹ Åland Islands (Finland): See Finland's *Act on the Autonomy of Finland*, Section 18(5), which holds that the currency of the Åland Islands is the Finnish markka, and the Finnish government retains total control over the currency.

Basque Country (Spain): See Basque Country, where the official currency is the Spanish peseta. See also the Spanish Constitution, Article 149(11), which states that the Spanish government shall have control over currency within Spain.

Catalonia (Spain): See Catalonia, where the official currency is the Spanish peseta. See also the Spanish Constitution, Article 149(11), which states that the Spanish government shall have control over currency within Spain.

Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, where the official currency is the Bangladesh taka.

Greenland (Denmark): See Greenland, where the official currency is the Danish krone, and the Danish government has authority over the krone.

Northern Ireland (United Kingdom): See Northern Ireland, where the official currency is the British pound sterling, and the United Kingdom has authority over the pound.

Puerto Rico (United States): See Puerto Rico, where the official currency is the United States dollar, and the United States government has authority over the dollar.

South Tyrol (Italy): See South Tyrol, where the official currency is the Italian lira, and the Italian government has authority over the lira.

¹³⁰ South Tyrol (Italy): See Italy's 1972 *New Autonomy Statute*, Section 8(23) and 9(5), which holds that South Tyrol has authority over labor issues.

Faroe Islands (Denmark): See the Faroe Islands, where the Faroe Islands government administers labor issues.

¹³¹ Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, where the Chittagong Tribal Council has authority over hiring practices, and may give priority to tribal citizens.

¹³² Jammu and Kashmir (India): See Jammu and Kashmir, where only citizens of Jammu and Kashmir may own land.

- No land, except for specified land owned by the State, may be transferred or sold without the permission of the autonomous entity.¹³³
- Land may be reserved by the State for members of a minority group.¹³⁴
- The autonomous entity has no control over land rights.¹³⁵

CULTURE

Common culture is the basis of group identity. The overarching objective of autonomy arrangements is to protect and promote distinct minority cultures. Responsibility for ensuring cultural autonomy may be reserved by the national government, allocated to the governing authority of the autonomous entity or shared between them. Varying degrees of autonomy are typically allocated to cultural expression in the areas of language, education, religious matters, and symbols of cultural identity.

Cultural Autonomy

Legal recognition:

- The autonomous entity has a legal guarantee protecting the right of ethnic minorities to cultural autonomy.¹³⁶
- The autonomous entity has no legal guarantee protecting the right of ethnic minorities to cultural autonomy.

¹³³ Chittagong Hill Tracts (Bangladesh): See the Chittagong Hill Tracts, where no land except for specified land, owned by the Bangladesh government, may be transferred or sold without permission from the local district councils.

¹³⁴ Malaysia: See Malaysia's autonomous regime for ethnic Malays, established under the Malaysian Constitution (Article 89), which holds that the Malaysian government may reserve land for minority groups.

¹³⁵ Sammi People (Finland/Norway): See the autonomous regimes governing the Saami people (Lapps) of northern Sweden, Norway, and Finland.

¹³⁶ Latvia: See Latvia's 1991 *Law of the Unrestricted Development and Right to Cultural Autonomy of Latvia's nationalities and Ethnic Groups*.

Åland Islands (Finland): See Finland's *Act of Autonomy of Åland*, Section 18(14), which holds that responsibility for all matters relating to culture in the Åland Islands are reserved for the Åland Island government.

Catalonia (Spain): See Spain's 1980 *Autonomy Statute for Catalonia*, Article 9(24), which gives power over all cultural issues to the government of Catalonia.

Faroe Islands (Denmark): See Denmark's 1948 *Home Rule Act*, which states that the Faroe Islands government has full control over cultural issues for the Faroe Islands.

Gagauzia (Moldova): See Moldova's 1994 *Special Status of Gagauz Act* Article 17(1)(h), which gives full control over laws and regulations regarding culture to the Gagauz local government, the National Assembly.

Greenland (Denmark): See Denmark's 1979 *Greenland Home Rule Act*, which provides that Greenland's local government have authority over the cultural affairs of the autonomous entity.

Nunavut (Canada): See the Canadian *Constitution Act* (1867), Sections 91(10) and 91(13), which hold that Nunavut has authority to promote the Nunavut culture.

Palestine (Israel): See the 1995 *Palestinians-Israeli Interim Agreement on the West Bank and the Gaza Strip*, Annex III, Appendix 1, article 32, which gives authority over cultural and religious affairs in Palestine to the Palestinian Authority.

South Tyrol (Italy): See Italy's 1972 *Autonomy Statute*, which states that the South Tyrol government has full control over all cultural affairs.

Education

- Education is the responsibility of the autonomous entity.¹³⁷
- Education is the responsibility of the autonomous entity, subject to conditions set by the State.¹³⁸
- Responsibility for education is shared by the autonomous entity and the State.¹³⁹
- Education is the responsibility of the State.¹⁴⁰

Construction of Schools:

- The autonomous entity has authority to construct new schools.¹⁴¹
- The autonomous entity and State each have authority to build new schools.¹⁴²
- Only the State may construct new schools.

¹³⁷ Åland Islands (Finland): See Finland's 1991 *Act of Autonomy of Åland*, Section 18(14), which holds that responsibility for education is reserved for the government of the Åland Islands.

Catalonia (Spain): See Spain's 1980 *Statute of Autonomy*, Article 9(14), which gives power to Catalonia for all regulation and administration for all issues concerning the region's education.

Greenland (Denmark): See the example of Greenland, where education is administered by Greenlanders, by the Director of Education for Greenland.

Micronesia (United States): See the 1983 Federated States of Micronesia Constitution, Article IX, Section 2, which holds that the Micronesian government has full authority to provide and promote education.

Netherlands Antilles (Netherlands): See the example of the Netherlands Antilles, where education is regulated by the Netherlands Antilles Council of Ministers.

Northern Ireland (United Kingdom): See the example of Northern Ireland, where education is administered by the Northern Ireland Parliament.

Palestine (Israel): See the 1995 *Palestinians-Israeli Interim Agreement on the West Bank and the Gaza Strip*, Annex III, Article 9, which gives authority over education in Palestine to the Palestinian Authority.

Puerto Rico (United States): See the example of Puerto Rico, which has authority over all education issues.

¹³⁸ Nunavut (Canada): See the Canadian *Constitution Act (1867)*, Section 9 (28), which provides that Nunavut has authority over education, subject to conditions of the central government.

Quebec (Canada): See the Canadian *Constitution Act (1867)*, which holds that each Canadian province, which Quebec is one, has authority over education as long as local legislation does not interfere with federal legislation on education.

¹³⁹ Faroe Islands (Denmark): See the example of Denmark, where the 1948 *Home Rule Act* designates education a responsibility of the Faroe Islands, but the Faroe government elects to share responsibility for education issues with the Danish government.

Navajo (United States): See the example of the Navajo, who are guaranteed education as American citizens by the United States government under *Myers v. Board of Education of the San Juan School District*, 23 Indian L. Rep. 3045 (D. Utah 1995), but who also may establish their own schools and colleges.

Tatarstan (Russian Federation): See the *Treaty on Demarcation of Powers Between the Agencies of State Power of the Russian Federation and the Republic of Tatarstan* (1994), which holds that responsibilities for education are shared by the governments of Russia and Tatarstan.

Jammu and Kashmir (India): See the example of Jammu and Kashmir, where the Kashmiri government administers education over the residents of Kashmir, and the Indian government also influences education through funding and formulation of education policies.

¹⁴⁰ Torres Strait Islands (Australia): See the example of the Torres Strait Islands, where the Australian government holds responsibility for education on the Island.

¹⁴¹ South Tyrol (Italy): See the example of South Tyrol, which has legislative control over school construction.

¹⁴² Navajo (United States): See the example of the Navajo, who are guaranteed education as American citizens by the United States government under *Myers v. Board of Education of the San Juan School District*, 23 Indian L. Rep. 3045 (D. Utah 1995), but who also may establish their own schools and colleges.

Employment and Supervision of Teachers:

- The autonomous entity has authority to employ and supervise teachers for autonomous schools.¹⁴³
- Teachers hired by the autonomous entity must be approved by the State.
- The State has authority to hire and supervise teachers for autonomous schools.¹⁴⁴

Development of Curricula:

- The autonomous entity has authority to develop curriculum.
- The autonomous entity has authority to develop curriculum, and the curriculum is approved by the central government.
- The autonomous entity has authority to develop curriculum for limited subjects.
- The State has authority to develop curriculum.

Language

Official status of minority language(s):

- The local language of the autonomous entity is the only official language of the autonomous entity, and is also one of the official languages of the State.¹⁴⁵
- The local language of the autonomous entity is the only official language of the autonomous entity, and is not an official language of the State.¹⁴⁶
- The local language of the autonomous entity and the State language are official languages of the autonomous entity.¹⁴⁷

¹⁴³ Estonia: See Estonia's 1920 Constitution (Section 2), which guarantees minorities in Estonia the right to organize, administer, and supervise public and private schools.

¹⁴⁴ South Tyrol (Italy): See Italy's autonomous regime for South Tyrol/Alto Adige, 1972 New Autonomy Statute (Sections 8(26-29), 9(2), and 19).

¹⁴⁵ Åland Islands (Finland): See Finland's *Åland Guarantee Act* (Section 36), which states Swedish is the only official language of the Åland Islands while both Swedish and Finnish are the official languages of Finland.

Jammu and Kashmir (India): See the example of Jammu and Kashmir, where the official language is Urdu.

Quebec (Canada): See the example of Quebec, where French is only the official language of the province, French and English are co-official languages of Canada.

¹⁴⁶ Navajo (United States): See the example of the Navajo Reservation, where the official language is Navajo.

¹⁴⁷ Basque Country (Spain): See Basque Country in Spain, where the local language "Euskera" and Castilian Spanish are co-official languages of the region.

Gagauzia (Moldova): See Moldova's 1994 *The Special Status of Gagauz Act*, which holds that Moldovan, Russian and Gagauz are the official languages of Gagauzia.

Greenland (Denmark): See the example of Greenland, where both Greenlandic and Danish are official languages for the autonomous entity.

Micronesia (United States) See the example of the Federated States of Micronesia, where the official languages are English and all local languages, including Trukese, Pohnpeian, Yapese, Kosrean, Kapingi, Ulithian, Wolian, and Nukuoran.

Puerto Rico (United States): See the example of Puerto Rico, where English and Spanish are both official languages.

Tatarstan (Russian Federation): See the Tatarstan Constitution, Article 49, which states that Russian and Tatar languages are both official languages of Tatarstan.

- The local language of the autonomous entity has no official status.¹⁴⁸

Language at schools:

- Students in the autonomous entity are entitled to instruction in their mother tongue.¹⁴⁹
- The local language must be used in schools.¹⁵⁰
- The State language must be used in schools.¹⁵¹
- Both local and State languages must be used in schools.¹⁵²
- The local language is the language of instruction and the State language must be taught to each student.¹⁵³
- The State language is the language of instruction and the local language must be taught to each student.
- No language requirements exist for schools.

Language proficiency for students:

- Students in the autonomous entity do not need to be proficient in the State language.¹⁵⁴
- Students in the autonomous entity must become proficient in the State language.

Language proficiency for teachers:

- Teachers must be proficient in State and local languages, and must be native speakers of the primary language taught at schools.¹⁵⁵
- Teachers do not need to be proficient in both State and local language.

¹⁴⁸ Netherlands Antilles (Netherlands): See the example of the Netherlands Antilles, where the only official language is Dutch and the minority languages have no official status.

Palestine (Israel): See the example of Palestine, where the official language of Israel is Hebrew, and there is no official status of Arabic, the language spoken by Palestinians.

Torres Strait Islands (Australia): See the example of the Torres Strait Islanders, where English is the only official language for the Torres Strait Islands.

¹⁴⁹ Chittagong Hill Tracts (Bangladesh): See the example of the Chittagong Hill Tracts, where students in the Hill Tracts, are entitled to be educated in their mother tongue.

¹⁵⁰ Åland Islands (Finland): See Finland's *Åland Guarantee Act* (Section 40), which states that Swedish is the language of education for all schools maintained or funded by state within the Åland Islands.

Latvia: See Latvia's Law on the Education of National Minorities (1919), which holds that each ethnic minority has a right to educate its children in its mother tongue.

¹⁵¹ Gibraltar (United Kingdom): See the 1969 Constitution of Gibraltar, Article 12(1), which provides that English is the language used in schools.

Netherlands Antilles (Netherlands): See the example of the Netherlands Antilles, where all teaching is in Dutch.

Puerto Rico (United States): See the example of Puerto Rico, where school instruction is conducted in English.

¹⁵² South Tyrol (Italy): See Italy's 1972 *New Autonomy Statute*, Section 29, 2nd paragraph, which provides that separate instruction shall be given for German, Italian, and Ladin in schools, and that teaching in the other main language is obligatory.

¹⁵³ Faroe Islands: See the example of the Faroe Islands, where Faroese is the language of school instruction and Danish must be taught to all students.

¹⁵⁴ Åland Islands (Finland): See Finland's *Act of Autonomy of Åland*, Section 41, which states that the Åland Islands students may graduate from Finnish institutions without proficiency in Finnish.

¹⁵⁵ South Tyrol (Italy): See the example of South Tyrol, where all teachers must be proficient in the languages taught in South Tyrol Schools (Italian and either German or Ladin), and must be native speakers of the primary language taught in a specific school.

Language proficiency for State government officials

- State officials working in the autonomous entity must be proficient in the local language.¹⁵⁶
- State officials working in the autonomous entity do not need to be proficient in the local language.
- The executive of the autonomous entity must be fluent in the State and local language.¹⁵⁷

Language used with autonomous government bodies:

- The local language must be used with local autonomous authorities.¹⁵⁸
- The State language must be used with local autonomous authorities.
- Either the local language or the State language may be used with autonomous authorities.¹⁵⁹

Language used for the autonomous government's official documents:

- The local language must be used for official documents of the autonomous government.¹⁶⁰
- The State language must be used for official documents of the autonomous government.
- Documents of the autonomous government must be in both State and local languages.
- Either the local or State language may be used for documents of the autonomous government.

Language used with local State government representatives:

- The local language must be used with State representatives or in local organs of State, and non-minorities may use the State language with State representatives.¹⁶¹

¹⁵⁶ Åland Islands (Finland): See Finland's *Act of Autonomy of Åland*, Section 42, which states that all state officials in the Åland Islands must be proficient in Swedish.

¹⁵⁷ Tatarstan (Russian Federation): See the Tatarstan Constitution, Article 108, which states that the Tatarstan president must be fluent in both Russian and Tatar.

¹⁵⁸ Åland Islands (Finland): See Finland's *Åland Guarantee Act*, Section 36, which states that Swedish must be used for all communications with organs of self-government.

¹⁵⁹ Faroe Islands (Denmark): See the example of the Faroe Islands, where both Faroese and Danish may be used for official matters.

Puerto Rico (United States): See the example of Puerto Rico, where both Spanish and English are used in local government affairs.

Tatarstan (Russian Federation): See the Tatarstan Constitution, Article 62, which states that local deputies may use the language of the majority of the population in their region.

¹⁶⁰ Åland Islands (Finland): See Finland's *Åland Guarantee Act* Section 36, which states that Swedish must be used for all documents issued by or to organs of self-government in the Åland Islands, and non-Swedish speakers may request a translation of the documents into Finnish.

¹⁶¹ Åland Islands (Finland): See Finland's *Åland Guarantee Act*, Section 36, 38, and 39, which states that Swedish must be used for all communications by state organs that deal with the Åland Islands, including those communications that take place outside the Åland Islands, excepting non-Swedish speakers, who may use Finnish with state representatives.

- The State language must be used with State representatives.¹⁶²
- Either the local or State language may be used with State representatives or in local organs of State, and local authorities must respond in the language in which the citizen has addressed them.¹⁶³

Language used for the local State government's official documents:

- The local language must be used for official documents of the State, and non-minorities may request a translation of documents into the State language.¹⁶⁴
- The State language must be used for documents of the State.
- Documents of State must be in both the local and State language.
- Either the local or the State language may be used for documents of State government.

Language used in legal proceedings:

- The local language must be used for legal proceedings.
- The State language must be used for legal proceedings.¹⁶⁵
- Either the local or State language may be used for legal proceedings.¹⁶⁶

Language used for official legal documents:

- The local language must be used for official legal documents, and non-minorities may request a translation of legal documents into the State language.¹⁶⁷
- The State language must be used for official legal documents.
- Legal documents must be in both the local and State language.
- Either the local or State language may be used for official legal documents.

Language used in the media:

- The local language must be used in the media.
- The State language must be used in the media.

¹⁶² Gagauzia (Moldova) See the example of Gagauzia, where Moldovan or Russian must be used with Moldovan agencies of public administration.

Puerto Rico (United States): See the example of Puerto Rico, where English is used for all business conducted by United States federal government institutions.

¹⁶³ South Tyrol (Italy): See Italy's 1972 New Autonomy Statute (Sections 8(26-29), 9(2), and 19) autonomous regime for South Tyrol.

¹⁶⁴ Åland Islands (Finland): See Finland's *Åland Guarantee Act*, Section 36, which states Swedish must be used for all official documents issued by state organs that deal with the Åland Islands.

¹⁶⁵ Puerto Rico (United States): See the example of Puerto Rico, where business conducted by the United States federal courts is conducted in English.

¹⁶⁶ Åland Islands (Finland): See Finland's *Åland Guarantee Act* (Section 36, 38, and 39) which states that Swedish is used for all legal proceedings dealing with the Åland Islands, including proceedings in the Finnish Supreme Court that deal with the Åland Islands, except for non-Swedish speakers; in which case, Finnish may be used in a court of law.

¹⁶⁷ Åland Islands (Finland): See Finland's *Åland Guarantee Act* (Section 36, 38, and 39), which states, Swedish must be used for all legal documents dealing with the Åland Islands, including decisions issued by the Finnish Supreme Court that deal with the Åland Islands, and non-Swedish speakers may request a translation of court documents into Finnish.

- The local and State languages must receive equal time for media programming.
- Either the local or State language may be used in the media.¹⁶⁸

Religion

- The autonomous entity regulates religious issues.
- The autonomous entity protects religious freedoms and protects access to holy sites.¹⁶⁹
- The autonomous entity maintains places of worship and religious education.¹⁷⁰
- The autonomous entity writes and disseminates relevant religious publications.¹⁷¹
- The autonomous entity establishes and maintains communications with individuals and communities in matters of religion or belief at the national or international levels.¹⁷²
- The autonomous entity is guaranteed the right to free exercise of religion, subject to the preservation of public order, morality, and health.¹⁷³
- The autonomous entity is guaranteed the right to practice religion without interference of the State, but not to proselytize.¹⁷⁴

Symbols

Flag:

- The autonomous entity may have its own flag, and may have legislative powers with respect to the use of its flag.¹⁷⁵

¹⁶⁸ Åland Islands (Finnish): See the example of the Åland Islands, where either Swedish or Finnish may be used for television or radio broadcasts, as well as in newspapers. In practice, all newspapers and television broadcasts are in Swedish, and all but one of the radio broadcasts are in Swedish.

Puerto Rico (United States): See the example of Puerto Rico, where there is no stipulated language requirement, but most local media use Spanish.

¹⁶⁹ Palestine (Israel): See the 1995 *Palestinians-Israeli Interim Agreement on the West Bank and the Gaza Strip*, Annex III, Appendix 1, article 32, which holds that Palestinians shall have authority to protect the freedom of religious worship and access to holy sites.

¹⁷⁰ See the *UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religious Religion or Belief*, Article 6.

¹⁷¹ See the *UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religious Religion or Belief*, Article 6.

¹⁷² See the *UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religious Religion or Belief*, Article 6.

¹⁷³ See the Indian Constitution, Articles 25 and 26 which guarantees the free exercise of religion, subject to the preservation of public order, morality, and health.

¹⁷⁴ See the Malaysian Constitution, Article 11(4), which protects practicing and professing religion from state interference, but which allows for restriction of proselytizing by the state.

¹⁷⁵ Åland Islands (Finland): See Finland's *Act of Autonomy of Åland*, Section 18(3), which states that the Åland Islands has legislative powers with respect to its flag and its coat of arms.

Greenland (Denmark): See Greenland's 1948 *Home Rule Act*, Article 12, which states that the Faroe Islands may have and fly its own flag.

Jammu and Kashmir (India): See the example of Jammu and Kashmir, which has its own state flag.

Micronesia (United States): See the example of Micronesia, which has its own flag.

Netherlands Antilles (Netherlands): See the example of the Netherlands Antilles, which has its own territorial flag.

Puerto Rico (United States): See the Constitution of the commonwealth of Puerto Rico, Article VI, Section 15, which states that the Puerto Rican Legislative Assembly determines all matters concerning the flag.

Quebec (Canada): See the example of Quebec, which has its own provincial flag.

- Flags of the autonomous entity may be freely used at the discretion of the autonomous entity, but must be flown alongside and at the same height as the State flag.¹⁷⁶
- There are no provisions for a separate flag for the autonomous entity.¹⁷⁷
- The State flag must be flown in the autonomous entity, and the autonomous entity may have its own flag, subject to approval by the central government.¹⁷⁸
- Displaying certain flags is outlawed by the State.¹⁷⁹

Seal:

- The autonomous entity may have its own seal, and authority over the use of its seal.¹⁸⁰
- The autonomous entity may have its own seal, subject to the approval of the central government.¹⁸¹
- The autonomous entity may not have its own seal.

Anthem:

- The autonomous entity may have its own anthem, and authority over the use of its anthem.¹⁸²
- The autonomous entity may have its own anthem, subject to the approval of the central government.¹⁸³
- The autonomous entity may not have its own anthem.

Tatarstan (Russian Federation): See the Tatarstan Constitution, Article 160, which holds that Tatarstan shall have its own flag.

¹⁷⁶ Basque Country (Spain): See the example of Basque Country, where the Basque flag may be flown freely, but must be flown alongside the Spanish flag.

Catalonia (Spain): The Catalan flag may also be flown freely, but must likewise be flown alongside the Spanish flag.

¹⁷⁷ Chittagong Hill Tracts (Bangladesh): See the example of the Chittagong Hill Tracts, where there is no legal provision for a separate Chittagong Hill Tracts flag.

Torres Strait Islanders (Australia): See the example of the Torres Strait Islanders, for whom there is no separate flag.

¹⁷⁸ South Tyrol (Italy): See Italy's 1972 *Autonomy Statute*, Article 3, which states that the Italian flag must be flown in South Tyrol, and South Tyrol may have its own flag, which must be approved by the Italian President.

¹⁷⁹ Northern Ireland (United Kingdom): See the example of Northern Ireland, where the displaying of the Republic of Ireland flag is prohibited by the government of the Kingdom.

¹⁸⁰ Puerto Rico (United States): See the Constitution of the commonwealth of Puerto Rico, Article VI, Section 15, which states that the Puerto Rican Legislative Assembly determines all matters concerning the seal.

Quebec (Canada): See the example of Quebec, which has its own provincial seal.

Tatarstan (Russian Federation): See the Tatarstan Constitution, Article 160, which holds that Tatarstan shall have its own coat of arms.

¹⁸¹ South Tyrol (Italy): See Italy's 1972 *Autonomy Statute*, Article 3, which states that the Italian flag must be flown in South Tyrol, and South Tyrol may have its own seal, which must be approved by the Italian President.

¹⁸² Puerto Rico (United States): See the Constitution of the commonwealth of Puerto Rico, Article VI, Section 15, which states that the Puerto Rican Legislative Assembly determines all matters concerning the anthem.

Tatarstan (Russian Federation): See the Tatarstan Constitution, Article 160, which holds that Tatarstan shall have its own anthem.

¹⁸³ South Tyrol (Italy): See Italy's 1972 *Autonomy Statute*, Article 3, which states that the Italian flag must be flown in South Tyrol, and South Tyrol may have its own anthem, which must be approved by the Italian President.

TRANSITIONAL JUSTICE MODELS

Context

Truth commissions (TCs) occur in the broader context of dealing with conflict or significant social trauma caused by conflict, crimes against humanity, or war crimes. They are part of a broader transitional justice program, helping states transition from war to peace or from authoritarian rule to democracy, while addressing legacies of mass human rights abuse.

Truth-telling is part of a broader transitional justice strategy aimed at providing redress, preventing the recurrence of violent conflict, and assisting a state or society repair or regenerate itself through a range of measures such as reparations and justice sector reforms. Transitional justice has different meanings in various contexts. In Timor Leste, it sought reconciliation between victims/perpetrators. In Peru, it was aimed at dignifying victims. In the Democratic Republic of the Congo (DRC), it was a way of consolidating the peace. And in Argentina, it set the stage for criminal prosecution and criminal justice sector reforms.

Truth-Telling

Jose Zalaquett, a leader of Chile's Human Rights Commission, heralded the "absolute value of truth." "Truth" was a significant feature of human rights movement in Chile and elsewhere in Latin America during the 1970s and 1980s. Argentina's "Mothers of the Plaza de Mayo," demanded to know what happened to loved ones.

Truth-telling was a response to dictatorships in Argentina, Brazil, Chile, and Uruguay that institutionalized deception. Their lies were directed to both the victims, as well as their surviving family members. In response, the UN Human Rights Council codified the "right to truth" in its 2005 resolution, which obligated the state to investigate human rights violations, inform individuals of the fate of missing or forcibly displaced relatives, provide information on official investigations, provide "mortal remains," and disclose the identity of violators.

Truth was expressed in two different ways—as voice and as evidence. The Spanish term, "Testimonio," is related to memory and storytelling. It differs from "testimony", which is a form of legal documentation. Testimonio emphasizes personal accounts of victims, witnesses, family members, and survivors who tell their story in their words. Testimonio provided victims and family members with a forum to be heard, maximizing their emotional impact and healing power.

Historians and others simultaneously used oral history as a sub-discipline, seeking factual as well as narrative truth. In addition, lawyers and legally-oriented NGOs were documenting the abuses of regimes. To clarify the status of the "disappeared," they were filing *Habeus Corpus* and other legal briefs with the authorities. They were establishing a paper trail by filing formal requests to meet with detainees and compiling portfolios using media reports and other sources of information to document the fate of victims. They were also taking steps to lay the ground for criminal prosecution either in a domestic court or at an international tribunal through depositions, affidavits, and collecting legal testimony from witnesses and others.

Truth Commissions

Since 1983, when the Argentine transition to democracy began, there have been dozens of TCs around the world. TCs have varied in size, budget, goals, aspirations, and mandate. Priscilla Hayner indicates that TCs are established to examine past abuses and consider the pattern of abuses over a specified time, as opposed to a particular event. They are officially sanctioned by the state, and an armed opposition group if part of a peace accord. TCs provide a final and complete report.

Mark Freeman emphasizes that investigation is a TC's primary function and that, as an overarching narrative of the historical period, it provides an account of the causes and consequences of violations. TCs are essentially victim-centered, defining victims and identifying beneficiaries. Whereas the TC may be established by the state, he underscores the importance of the TC's financial, legal, and operational independence. They can directly support prosecutions (e.g. Argentina, Chile, possibly Liberia) or be an alternative to prosecutions (e.g. South Africa).

Some governments may create a TC to illuminate the truth, while others may seek to defer action, deflect criticism, and undermine justice by:

- “Outsourcing” the responsibility of historical justice to a third party.
- Gaining “breathing space” by pointing to a process underway.
- Attributing investigative failures to the commission not the government.
- Presenting an alternative that is less threatening than trials and less expensive than compensation.
- Exhausting public interest in greater measures of political and legal accountability.

Unofficial truth-telling

Beginning in Latin America in the 1980s, religious communities, academic institutions and local government have cooperated to document violations and issue reports, prompting democratic governments to take action. According to Eduardo Gonzalez, unofficial truth projects produce reports similar in shape and scope to TCs. They can also undertake special activities such as mock trials that document abuses.

- Northern Ireland's Ardoyne Community Project used multi-media to describe “The Troubles” from the perspective of an affected community.
- USA/Greensboro Truth and Reconciliation Project documented the killing of 5 civil rights activists by the KKK on November 3, 1979 as a platform for community education efforts.
- Guatemala's Recovery of Historical Memory Project compiled statements from 6,500 people over 3 years after the UN brokered an accord ending the murder of indigenous people by security forces. The project set a standard and galvanized creation of an official commission.
- Brazil's “Nunca Mais” was an ecumenical initiative of Catholic and Protestant leaders who gained access to security archives to document disappearances by the junta (1964-79). The initiative resulted in city-based inquiries, exhumations and reparations.
- Colombia's Palace of Justice TC was led by former Supreme Court justices looking into the security's assault on the Supreme Court when it was seized by guerillas on November 6, 1985. More than 100 people including all the justices were killed during the incident.

Non-governmental or unofficial truth projects also produce “memoryworks” (e.g. theater, art, video and literature projects that focus on the past, as well as memorials, museums, and traveling exhibits).

Peace-building focuses on post-conflict rather than the post-authoritarian context. In his seminal article "After Violence: Reconstruction, Reconciliation, Resolution: Coping with Visible and Invisible Effects of War and Violence," Johan Galtung describes models of different forms of reconciliation and the relationships between reconciliation and a “positive peace.”

Reconciliation

Do the terms “truth” and “reconciliation” necessarily go together? Not all TCs use the term “reconciliation.” The Historical Clarification Commission in Guatemala, for example, deliberately steered away from the idea of reconciliation, as did the Paraguayan Truth and Justice Commission.

In 1990, the Chilean government established the world’s first “truth and reconciliation” commission. Reconciliation focused on the political class and involved:

- Granting amnesties and commuting prison sentences.
- Creating conditions for the return of political exiles.
- Providing pensions or reparations to “both sides.”
- Taking symbolic measures (e.g. monuments).
- Incorporating losers into cabinet posts, congress, etc.
- Adopting constitutional, electoral, and legal reforms.

Reconciliation means a variety of different things in different contexts.

- Mutual respect and peace between communities: As conflict comes to an end, it becomes important for combatants who have fought against each other to learn to co-exist with each other and do so in a way that respects each other’s cultures.
- Forgetting: Can also mean selective forgetting. When the Khmer Rouge leaders in Cambodia call for reconciliation, they are, in fact, asking for “bygones to be bygones” and not for a rigorous remembering of the past.
- Nation-building: In some contexts, including South Africa, the rhetoric around reconciliation emphasizes the importance of being a single nation in which different ethnicities and races can agree to live and work together and consider themselves constituent parts of a single nation.
- Political cooperation: Another form of reconciliation, such as in Chile and Myanmar is the idea that political elites can work together in a political system.
- Post-conflict reconstruction: Involves the institutions necessary for reconstruction after a conflict — the ability to work together to form public and civic institutions, the rule of law, and transparent or democratic decision-making bodies.

“The 1995 Promotion of National Unity and Reconciliation Act” established the TRC for South Africa. The TRC was sought to address “the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice” and to create a future “founded on the recognition

of human rights, democracy and peaceful co-existence for all South Africans, irrespective of colour, race, class, belief or sex.” To hear the voices of perpetrators, South Africa’s TRC granted amnesty to those who had committed crimes.

Technical issues

Development of a truth-telling process depends on the range of political issues and strategic considerations described above. In this context, protagonists must also consider a range of technical issues.

Objectives

Establish facts.

- Interpret facts.
- Recognize the victims’ experience to restore their dignity.
- Emphasize impartiality by involving both sides.
- Contribute to other transitional justice policies.

Authority

- Executive branch (e.g. presidential decree in Argentina, Peru, Chile and Honduras).
- Legislative branch (e.g. South Africa, Liberia, Kenya).
- Hybrid involving measures by both the executive and legislature (e.g. Nigeria, DRC)
- Royal monarch (e.g. Morocco).
- Judiciary (e.g. Canada, Colombia)
- United Nations (e.g. Timor Leste), part of a peace agreement (e.g. El Salvador), or via legislation codifying an accord (e.g. Sierra Leone).

(Note: Creation by decree is generally more expeditious. Alternatively, creation by law involves multi-party negotiations and is thus more legitimate. Legislatures can typically grant the TC with quasi-judicial powers whereas executive typically cannot).

Functions

- Conduct research (e.g. examine witnesses, access records, inspect locations, forensics).
- Utilize special powers (e.g. subpoena, cooperation incentives).
- Organize hearings and other outreach activities.
- Report back to the authorities and the citizenry.
- Complement other truth seeking mechanisms such as freedom of information legislation or opening records of the security forces.

Competence

- Define human rights violations or other crimes. (e.g. Article 2 of Liberia’s used international humanitarian law to define violations. Article 3 of Peru’s TRC offered a shorter list of core examples.

- Consider a specific time period and territory (e.g. longer examples are Morocco 1956-99 and South Africa (1960-94).
- Identify targets a group (e.g. state officials/security apparatus, members of armed opposition groups).
- Differentiate from a historical commission. (e.g. Turkey rejects the term genocide of events between 1915 and 1923, highlighting conditions of armed rebellion dating from the 1880s).

Powers

- Request cooperation.
- Subpoena private or public persons and information.
- Witness protection.
- Administer legal benefits (e.g. immunity, amnesties, and clemency in exchange for cooperation).

Composition

- Direct appointment by head of state (e.g. Panama); legislature (e.g. Germany); joint executive/legislature (e.g. Sierra Leone and South Africa).
- All nationals (e.g. Uganda), all foreigners (e.g. El Salvador), advised by UN (e.g. Sierra Leone) or by international experts (e.g. Timor Leste).

Credibility

- International membership.
- Capacity/independence to carry out its mandate/tasks.
- Public consultation or vetting (e.g. mandate and composition).
- Diverse representation (e.g. ethnicity, religion, gender).
- Participation (e.g. persons with high moral standing, reputation for objectivity, or representing constituencies directly affected by the conflict).

Financing

- National government (e.g. Argentina).
- International sources (e.g. El Salvador).
- Both national and international sources (e.g. Peru).
- Private foreign donors (e.g. Nigeria). Budgets range from \$5-10 million/year.

Working methods

- System (interviews)
- Database (aggregate information by region, background of victim, type of conduct, patterns).
- Duration (Note: TCs that do not conduct public hearings typically last less than one year. With public hearings, they usually last 1-2 years. Uganda had the longest running TC lasting 8 years).

- Staff (Personnel usually include social scientists, lawyers, and statisticians. Chile's TC was the largest comprised of 500 national staff).

Conclusion

There is no boiler plate approach. Measures must be adapted to the unique history, culture and conditions of those directly affected by events.

DISARMAMENT, DEMOBILIZATION AND REINTEGRATION

As a violent armed conflict comes to an end via cease-fires, peace negotiations, or victory, countries confront the challenge of what to do with the hundreds and often thousands of armed combatants that fought the war. This is often a daunting problem with serious political, military, humanitarian and development implications. In Colombia, for example, government authorities have created a program that encouraged and supported the disarmament of over 31,800 ex-paramilitaries, as well as 21,000 former members of guerrilla groups, to date. Many of them came to the program with little or no education, few job skills, health problems, and accompanied by their families.

Programs for the disarmament, demobilization, and reintegration (DDR) of ex-combatants emerged as a response to this challenge. Since the late 1980s, DDR has become a standard feature of peace agreements and post-conflict peacebuilding environments. Approximately thirty-four DDR programs were created between 1994 and 2005. In 2007, there were over a million former combatants participating in DDR programs in 19 different countries. The total cost of these 19 DDR programs was estimated at over \$1.6 billion dollars, an average of \$1,434 per person demobilized.

DDR programs can function as a critical step in ending violence by disarming large numbers of armed actors, disbanding illegal, dysfunctional or oversized military organizations, and reintegrating ex-combatants into civilian or legitimate security sector livelihoods. For civilian populations that have suffered years of violence, DDR is often the first public indication that the fighting and violence has finally ended. Yet donors, governments, and practitioners tend to focus on DDR as a short-term technical, and primarily military, exercise with no consideration of the larger implications of these programs. The results of this kind of “guns, camps and cash” approach are disappointing. If measured on the rates of returns to violence in the countries where these programs were implemented, most DDR programs have failed. What DDR experts and practitioners are learning from the failures – and a few qualified successes – is that transitions from armed conflict to peace must be based on a long-term strategy. Moreover, DDR alone cannot build peace, nor can it prevent the armed groups from reverting to violence. It needs to be implemented as part of comprehensive strategy for peacebuilding and reconstruction, including elements of security sector reform, political and justice reform, transitional justice measures, and socio-economic development. Finally, the focus of DDR programs cannot be solely on ex-combatants, many of whom have committed acts of violence and violated national and international human rights laws. Victims and victimized communities must also have a stake in DDR, including access to justice and benefits. Ex-combatants cannot be reintegrated into communities who cannot or will not absorb them.

What is DDR?

DDR is a process that seeks to remove weapons from the hands of combatants, take the combatants out of military structures, and help them to integrate socially and economically into society. These processes look different in different country contexts, and are ultimately shaped by the actors who are party to the conflict, as well as the legal and political frameworks that

emerge from a ceasefire or peace agreement between these actors. However, while the sequencing may be different from conflict to conflict, most DDR processes include at least three components:

Disarmament: Disarmament is the collection and destruction of weapons – not only weapons of combatants, but often also of the civilian population. Disarmament further includes the development of responsible arms management programmes. The disarmament process is often followed by assembling ex-combatants in camps.

Demobilization: Demobilization involves the dismantlement of the command, control, and remobilization capacity of armed factions. As described by the Integrated DDR Standards of the United Nations, demobilization is both a physical and mental process – physical in terms of the separation of combatants from their military unit, and mental in terms of preparing the ex-combatant for life outside the structure of an armed group.

Reintegration: Reintegration is the process by which ex-combatants acquire civilian status and gain sustainable employment and income. Reintegration is essentially a social and economic process with an open time-frame, primarily taking place in communities at the local level.

While the majority of participants are men, ex-combatants can be members of irregular armed groups like rebel armies or guerrillas, or paramilitaries, but also members of the army or other national forces. In many cases there are also significant numbers of child soldiers – boys and girls, as well as women combatants that need to be demobilized.

The establishment of a DDR process is usually agreed to and defined within a ceasefire or peace accord. These types of agreements provide the political and legal framework for the process. In many post-conflict contexts, the parties to a ceasefire or peace agreement may not trust each other, or lack the capacity to design, plan, and implement DDR programs. In these situations a third party like the United Nations, the International Organization of Migration, or a regional body like the Africa Union, or a non-governmental organization, may play a leading role. In many cases, there is a national body created to oversee the DDR process on behalf of the government. For example, in Nepal, the Joint Monitoring Coordinating Committee, with representation from both the Maoist Communist Party of Nepal and the Nepal Royal Army, are working with the United Nations Mission in Nepal, to reintegrate about 20,000 members of the People's Republic Army, the fighting force of the Maoists.

Beyond the signing of an agreement there are certain preconditions for DDR to take place, including a minimum guarantee of security and willingness of the parties to the conflict to engage in DDR. Political will is particularly important. DDR is essentially a politically driven process and most DDR programs stall, or are only partly implemented, because the political climate is not right. The success of the DDR process therefore depends on the political will of the various parties to the conflict to enter into the process in a genuine manner.

The objectives of a DDR process include the re-establishment of the state monopoly over the use of force, prevention of the renewal of violence, and establishment of conditions that allow for the

reintegration of the armed factions. DDR programs aim to address the post-conflict security challenges that arise from ex-combatants being left without livelihoods or support networks during the critical transition period from conflict to peace and development. Through sustainable economic and social reintegration; DDR seeks to support ex-combatants so that they can become stakeholders in the peace. Beyond the immediate security aims of these processes, they also seek to contribute to stability in post-conflict environments, facilitate national reconciliation, and to link to broader peacebuilding processes, so that recovery and development can begin.

How do we define success in DDR?

Evaluations of DDR programs frequently list the number of weapons collected and the numbers of fighters demobilized. While these numbers are critical indicators, they do not take into account the number of new recruits joining illegal armed groups, or the level of on-going violence. As an integral part of a comprehensive peacebuilding process, a successful DDR program must be judged by the reduction of violence and the end of violent conflict.

Lessons learned in DDR

Each DDR program is unique and necessarily reflects, or responds, to the specific characteristics of the armed conflict, the negotiation process, the parties to the conflict, and the culture and history of the country, or countries, involved. Consider that a DDR process for a paramilitary force that has worked alongside the national army and police will require a very different set of incentives and options to disarm, demobilize, and reintegrate, than a guerrilla forces that considers the governments its enemy. Over the past 30 years there are, however, lessons have been learned that can benefit planners and practitioners across diverse country contexts. For the purposes of this paper, I will briefly describe the following seven points.

- National ownership is critical
- Successful program design needs good information and analysis
- Getting to DDR requires a combinations and carrots and sticks
- Justice approach
- DDR alone cannot bring justice and peace
- Focus cannot be solely on ex-combatants
- Don't short change reintegration

National and community ownership is critical

DDR programs require money and human resources, legal and policy changes, and, often, a change in the sentiment of the general population towards the combatants. As with any initiative that requires this level of change; the higher the sense of national and local ownership, the higher the prospect for success. If the DDR program is perceived as a top-down international or government initiative, with no involvement or coordination with local officials and communities, those officials and communities are much less likely to support the program.

Successful program design needs good information and analysis

Designing and implementing a DDR program is dependent on good baseline data, political analysis, and cultural understanding. Many programs have failed because of poor data and analysis and a lack of local knowledge. For example, a first attempt at DDR in Liberia after the Comprehensive Peace Agreement was signed in 2003 had to be aborted. Fear that the security situation in the capital city of Monrovia would deteriorate if the factions were not immediately disarmed prompted an ill-advised early start to the first phase of DDR. Authorities were overwhelmed by the high turnout of ex-fighters for this first phase, and the situation deteriorated into violence and looting at the cantonment sites. The process was aborted just ten days later, because of the lack of preparation and inadequate security. Good practice includes direct field assessments, direct communication with leaders of the armed group or groups, and the integration of local experts into the planning team.

Getting to DDR requires a combinations and carrots and sticks

In most cases, the offer of incentives to ex-combatants to enter a DDR program, which may include pardons, targeted amnesties for low level crimes, security guarantees, cash and reintegration programs with education opportunities or job skills training, must be backed with a credible threat of police or military action. Ex-combatants must weigh the potential benefits of entering the DDR program against the pros and cons of leaving the armed group, for example the concern that the armed group will take revenge on deserters, or the possibilities of injury, detention or death. Ex-combatants frequently fear the prospect of facing justice or some kind of retribution for their participation in an illegal armed group, or for their actions as combatants. Justice elements such as targeted amnesties can be an incentive for disarmament. For example, while amnesties for war crimes, crimes against humanity, genocide, and gross violations of human rights are illegal under international law, targeted amnesties for lower-level combatants can act as an incentive for their participation in demobilization while still allowing for prosecution of those (senior officers) most responsible for human rights crimes. Ex-combatants in Sierra Leone supported the work of the Special Court for Sierra Leone in part because of its promise to focus on those bearing the greatest responsibility for the violation of human rights and international crimes.

Justice approach

DDR carried out in situations without recourse to, or coordination with, justice mechanisms such as prosecutions for war crimes, truth commissions or reparations for victims can result in increased tensions, including growing inequities between ex-combatants and victims that can foster resentment and impede reintegration. Increasingly the question is not if there should be a justice element as part of a peace agreement – but what it should be – recent agreements in Burundi, Aceh in Indonesia, and Liberia all included provisions for a truth commission, and DDR programs in Colombia and Uganda are explicitly linked with criminal justice processes.

DDR alone cannot bring justice and peace

DDR alone cannot build peace, nor can it prevent the armed groups from reverting to violence. It needs to be implemented as part of comprehensive strategy for peacebuilding and reconstruction, including elements of security sector reform, political and justice reform, transitional justice measures, and socioeconomic development.

Focus cannot be solely on ex-combatants

DDR necessarily focuses on ex-combatants, but these programs must also take into consideration the capacity and willingness of communities to absorb ex-combatants after disarmament and demobilization. Often communities reject ex-combatants or marginalize them in ways that makes reintegration impossible. Concepts of ‘community-centered’ reintegration may offer an alternative model to current focuses that tend to be individual-specific. Such approaches may also offer a bridge to link the claims and needs of ex-combatants and victims, together with those of the communities where they reside. At the very least, increased consultation with victims’ groups, communities receiving demobilized combatants, municipal governments, faith-based organizations and the demobilized combatants and their families can inform and strengthen the legitimacy of DDR and transitional justice processes. An important international study supported by the Swedish Government proposed an approach to reintegration that includes a multi-donor trust fund with two targets: one committed to on the reintegration of ex-combatants and another dedicated to the needs of the recipient communities.

Don’t short change reintegration

DDR program tend to put far greater attention and resources toward disarmament and demobilization. Considerably less emphasis is placed on preparing a coherent and long-term strategy and implementation of activities to support reintegration. In the rush to provide ‘support’, communities are not adequately consulted or prepared for the return of ex-combatants and the absorptive capacities of recipient communities cannot meet the needs of returning combatants.

Conclusion

Security is a primary preoccupation of peacebuilding efforts and DDR program for combatants are often a first step in the process towards ending violent conflict. DDR can contribute to ending of limiting violence by disarming large numbers of armed actors, disbanding illegal or dysfunctional military organizations, and reintegrating ex-combatants into civilian or legitimate security-related livelihoods. DDR alone, however, cannot build peace. It needs to be part of a larger system of peacebuilding interventions, which include security sector reform, transitional justice, good governance, and broader socioeconomic development programs.