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MINORITY RIGHTS AND THE REMEDIAL GAP IN SOUTH ASIA

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Abstract

International minority rights become practically consequential through domestic decisions about identity, legal status, and participation. This article examines how international law scrutinises those decisions and the remedies its institutions can secure. It distinguishes binding treaty obligations from the standards articulated in the 1992 UN Minorities Declaration and compares religious classification in Pakistan, citizenship eligibility and documentation in India, and Indigenous consultation in Nepal. Using legislation, treaty interpretations, and supervisory findings, it argues that the principal institutional difficulty lies in connecting international scrutiny to domestic correction. The cases reveal different points at which protection can fail, including the framing of the claim, access to review, and implementation. The article proposes reform directed at those points through reasoned decisions, accessible challenges, representative consultation, and public monitoring of recommendations. It identifies domestic remedial capacity as a central measure of international protection.

Keywords — Minority Rights, Article 27 ICCPR, South Asia, Citizenship, Religious Freedom, Indigenous Consultation

I. Introduction

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Minority protection often depends on a decision made before a court considers the substance of a minority-rights claim. A constitutional definition can determine a community's official religious identity. An administrative process can decide whether a person's documents establish citizenship. A consultation procedure can determine whether a community has an opportunity to influence a measure affecting it. Each decision connects an abstract entitlement to an institution capable of giving it practical effect. Examining that connection offers a way to understand the uneven protection of minorities in South Asia.

The international framework supplies several relevant obligations. The International Covenant on Civil and Political Rights protects religious freedom, equality before the law, and the communal exercise of minority culture, religion, and language. It also requires effective remedies for violations. The 1992 UN Minorities Declaration adds an expressly articulated programme of identity protection and participation. These instruments differ in legal status, and their supervisory arrangements differ in who can use them and what they can achieve.[4]

This article asks how international law addresses domestic decisions about membership and eligibility, and where the process of obtaining correction becomes difficult. Its central argument is that the institutional weakness of minority protection must be located precisely. A state may be subject to a substantive obligation and international scrutiny while the affected person remains unable to obtain timely relief. The relevant inquiry therefore follows a claim from the domestic measure through the applicable international standard and supervisory mechanism to the institution responsible for correction.

The comparison examines Pakistan's legal treatment of Ahmadis, India's citizenship legislation and Assam registration process, and Nepal's arrangements for Indigenous consultation. These are selected illustrations of different legal techniques. They do not establish the prevalence of a single pattern across every South Asian state. The legal positions of religious minorities, citizenship claimants, and Indigenous peoples also require separate treatment. The comparison concerns the institutional relationship between a decision affecting a protected interest and the means available to challenge or influence it.

[4] International Covenant on Civil and Political Rights arts. 2, 18, 26–27, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]. G.A. Res. 47/135, annex, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities arts. 1–4 (Dec. 18, 1992) [hereinafter Minorities Declaration].

The argument builds on scholarship about how the framing of group claims affects their legal treatment. Kingsbury identifies several overlapping frameworks through which groups articulate claims, including minority rights, general human rights, and the specific claims of Indigenous peoples.[5] The present inquiry follows that problem into domestic decision-making. It asks how a classification or procedure shapes both the claim and the correction available. It also takes seriously the possibility that reporting generates domestic pressure. Creamer and Simmons' research on the Convention Against Torture identifies pathways through civil society, public attention, and legislation.[6] That finding counsels against treating international monitoring as inherently futile. Whether comparable pathways operate in the cases examined here remains a question requiring evidence.

The method is doctrinal and comparative. The principal materials are treaty provisions, national legislation, general comments, and supervisory findings. The Human Rights Committee's 2024 observations on India and Pakistan and the ILO Committee of Experts' Nepal observation adopted in 2024 and published in 2025 provide recent points of reference. These records establish what supervisory institutions examined and requested. An observation identifying a concern does not by itself establish the subsequent fate of every recommendation. This article consequently identifies limits of remedial design without claiming to measure national compliance rates or the causal impact of international review.[7]

Part II sets out the relationship between minority protection, general human rights, and effective remedies. Part III distinguishes the available supervisory routes. Part IV examines the three domestic settings. Part V develops the comparative argument and considers its limits. Part VI proposes institutional reforms. Part VII concludes.

II. International Obligations and the Meaning of Protection

[5] Benedict Kingsbury, Claims by Non-State Groups in International Law, 25 CORNELL INT'L L.J. 481, 481–83 (1992).

[6] Cosette D. Creamer & Beth A. Simmons, Do Self-Reporting Regimes Matter? Evidence from the Convention Against Torture, 63 INT'L STUD. Q. 1051, 1051 (2019).

[7] Hum. Rts. Comm., Concluding Observations on the Fourth Periodic Report of India, U.N. Doc. CCPR/C/IND/CO/4 (Sept. 2, 2024) [hereinafter India Observations]. Hum. Rts. Comm., Concluding Observations on the Second Periodic Report of Pakistan, U.N. Doc. CCPR/C/PAK/CO/2 (Dec. 2, 2024) [hereinafter Pakistan Observations]. Int'l Lab. Org., Comm. of Experts on the Application of Conventions & Recommendations, Observation on the Indigenous and Tribal Peoples Convention, 1989 (No. 169)—Nepal (adopted 2024, published 2025) [hereinafter Nepal Observation], https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:4401626,en.

A. Article 27 and the Identification of Rights Holders

Article 27 protects persons belonging to ethnic, religious, or linguistic minorities in the enjoyment of culture, religion, and language in community with other members of their group. Its individual formulation accommodates interests whose exercise has a communal dimension. Protection can therefore concern the conditions under which a community maintains a practice as well as a particular prohibition imposed on one member.[8]

The provision's opening reference to states where minorities exist raises an obvious question about recognition. Domestic recognition cannot conclusively settle the international claim. In General Comment No. 23, the Human Rights Committee treats minority existence as an objective question and explains that citizenship and permanent residence are not general prerequisites for Article 27 protection. The same comment recognises the possible need for positive protective measures despite the provision's negative wording.[9]

These propositions constrain the argument a government can make about the reach of its obligations. They do not remove the practical importance of domestic categories. A claimant may still need to identify the relevant practice, establish its connection with the community, and show how a measure impairs its enjoyment. The difference between international entitlement and domestic recognition becomes significant when the authority assessing those matters has adopted a category that obscures the claimed harm. An effective procedure must permit the category itself, or its use in the particular decision, to be questioned.

The communal dimension of protection also explains why an individual remedy can require changes beyond the claimant's immediate circumstances. In *Poma Poma v. Peru*, the Committee examined interference with an Indigenous author's culturally significant livelihood and connected Article 27 protection to effective participation in decisions with serious effects on that livelihood.[10] The case supplies a doctrinal example of international scrutiny reaching the conditions of cultural survival. Applying its reasoning elsewhere requires attention to the affected activity and the gravity of the interference.

B. Religious Freedom and Equality Alongside Minority Rights

[8] ICCPR, supra note 1, art. 27.
[9] Hum. Rts. Comm., General Comment No. 23 on Article 27 (Rights of Minorities), ¶¶ 5.1–6.2, U.N. Doc. CCPR/C/21/Rev.1/Add.5 (Apr. 26, 1994) [hereinafter General Comment No. 23].
[10] Poma Poma v. Peru, Commc'n No. 1457/2006, ¶¶ 7.2–7.7, U.N. Doc. CCPR/C/95/D/1457/2006 (Mar. 27, 2009).

Article 27 forms part of a wider legal framework. Article 18 protects freedom of thought, conscience, and religion. Article 26 supplies an autonomous guarantee of equality before the law and equal protection. Article 2 requires respect and protection of Covenant rights without the prohibited distinctions. Religious classification may engage these guarantees even when a claim is not framed under Article 27.[11]

This matters for the selection of the legal claim. A restriction on public worship, a discriminatory citizenship condition, and a denial of cultural participation involve different interests and justifications. Presenting all three as Article 27 problems can conceal the provision best suited to examine the conduct. Conversely, relying exclusively on general equality may overlook the importance of preserving a communal practice. The analysis should state what each guarantee contributes and identify any overlap.

Equality review also requires a structured account of the distinction challenged. The Committee's General Comment No. 18 recognises that differentiation can be compatible with the Covenant when it rests on reasonable and objective criteria and pursues a legitimate purpose.[12] An article alleging discrimination should therefore identify the relevant comparator, the basis of differentiation, the justification advanced, and the relationship between the means and the purpose. That discipline is especially important when a state presents preferential treatment as protection for a vulnerable group.

C. The Declaration and the Obligation to Provide Remedies

The 1992 Declaration addresses identity, equality, participation, and state measures to enable the enjoyment of rights. Article 2(2) concerns participation in cultural, religious, social, economic, and public life. Article 2(3) addresses participation in decisions concerning the minority or the regions where its members live. Article 8(1) preserves existing international obligations, while Article 8(3) recognises that measures enabling the effective enjoyment of the Declaration's rights need not violate equality.[13]

As a General Assembly declaration, it does not itself create the treaty machinery or comprehensive binding obligations that a convention could create. Particular protections must

[11] ICCPR, supra note 1, arts. 2(1), 18, 26–27.
[12] Hum. Rts. Comm., General Comment No. 18 on Non-Discrimination, ¶¶ 7, 12–13 (Nov. 10, 1989), in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, vol. I, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (May 27, 2008) [hereinafter General Comment No. 18].
[13] Minorities Declaration, supra note 1, arts. 1–4, 8(1), 8(3).

be connected to their own legal sources. Its value includes the standards it articulates for evaluating participation and identity protection. A claim that any provision independently reflects customary international law requires a separate demonstration of state practice and acceptance as law. The adoption of the Declaration cannot substitute for that inquiry.

Article 2(3) of the Covenant makes the availability of an effective remedy part of the state's legal undertaking. General Comment No. 31 explains that all branches of government can engage state responsibility and addresses investigation, reparation, and measures against recurrence.[14] Domestic constitutional rank consequently does not answer the international question. A measure authorised by a constitution can still require scrutiny under a treaty obligation. The practical question is which domestic institution can provide correction and whether it has the legal power and independence to do so.

III. International Scrutiny and Access to Correction

A. Treaty Reporting and Individual Communications

The Covenant's reporting procedure enables the Committee to examine a state's implementation and issue concluding observations. Individual communications require a separate jurisdictional basis under the First Optional Protocol. The Protocol adds admissibility requirements, including the general requirement to exhaust available domestic remedies, subject to its terms. The two procedures serve different purposes and should be evaluated accordingly.[15]

A reporting dialogue can identify a discriminatory law and request amendment without producing a decision on an individual claim for compensation. A communication can generate Views directed to a particular violation, but access depends on the state's acceptance of the Protocol and the claimant's ability to satisfy admissibility requirements. Neither procedure can be assessed simply by asking whether international law is binding. The status of the underlying obligation, the authority of the output, and the means of implementation are separate questions.

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[14] ICCPR, supra note 1, art. 2(3). Hum. Rts. Comm., General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, ¶¶ 4, 15–18, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004) [hereinafter General Comment No. 31].

[15] ICCPR, supra note 1, art. 40. Optional Protocol to the International Covenant on Civil and Political Rights arts. 1–5, Dec. 16, 1966, 999 U.N.T.S. 302 [hereinafter First Optional Protocol].

The Committee describes its Views under the Optional Protocol as possessing important characteristics of a judicial decision and as an authoritative determination by the body entrusted with interpreting the Covenant. Its follow-up procedure seeks information about implementation.[16] The resulting relationship requires cooperation and domestic action. A finding does not automatically amend legislation, release a detained person, or pay compensation. The institution responsible for each step must be identifiable within the national system.

Acceptance of the Optional Protocol also varies within the selected comparison. Nepal acceded in 1991. India and Pakistan do not appear among its parties in the UN depositary record consulted for this article.[17] This difference limits any claim of uniform regional access. It also shows why Nepal provides a useful institutional comparison even though the substantive consultation question arises primarily under an ILO convention.

B. Peer Review and Minority Participation

The Universal Periodic Review extends scrutiny to every UN member state. Its founding framework identifies the Charter, the Universal Declaration of Human Rights, the state's treaty obligations, and its voluntary commitments among the bases of review. It draws on state reporting, UN material, and stakeholder information.[18] This breadth can bring minority concerns before an international audience even where access to an individual treaty complaint is unavailable.

Its recommendations must nevertheless be followed through their own procedural history. A supported recommendation records a position taken in review. Evidence of implementation requires attention to the later measure, its operation, and the experience of the people affected. A noted recommendation should also be distinguished from the underlying treaty obligation, which does not disappear because a government declines to support a particular formulation. Any empirical assessment needs a defined set of recommendations, a period of observation, and an explicit measure of implementation.

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[16] Hum. Rts. Comm., General Comment No. 33 on Obligations of States Parties Under the Optional Protocol to the International Covenant on Civil and Political Rights, ¶¶ 11–15, U.N. Doc. CCPR/C/GC/33 (Nov. 5, 2008).
[17] U.N. Treaty Collection, Optional Protocol to the International Covenant on Civil and Political Rights, ch. IV, no. 5, https://treaties.un.org/pages/ViewDetails.aspx?chapter=4&mtdsg_no=IV-5&src=TREATY (last visited Nov. 4, 2026).
[18] Hum. Rts. Council Res. 5/1, annex ¶¶ 1–3, 15, 26–38, U.N. Doc. A/HRC/RES/5/1 (June 18, 2007).

The Forum on Minority Issues provides a further channel for participation and thematic recommendations. Human Rights Council Resolution 6/15 established it as a platform for dialogue and cooperation linked to the minority mandate.[19] Its usefulness can include making a concern visible, developing standards, and connecting community organisations with international procedures. Those functions require different evidence from an assessment of whether an individual obtained redress. Institutional comparison is clearer when it states the function being evaluated.

C. The Regional Setting

South Asia lacks a regional human rights court with general jurisdiction comparable to those established by the European and Inter-American human rights treaties. The SAARC Charter organises intergovernmental cooperation and requires unanimity. It also excludes bilateral and contentious issues from deliberations.[20] These institutional choices complicate proposals for a regional body able to examine contested national conduct.

The absence of a court leaves fewer external avenues for an individual seeking correction, but it does not establish that regional adjudication would necessarily resolve the problems examined here. Access rules, independence, interim protection, and domestic execution would determine the contribution of any new institution. The immediate comparison must therefore examine the domestic and universal procedures that exist, while treating regional institutional reform as a prospective question.

IV. Domestic Decisions in Three South Asian Settings

A. Pakistan and the Legal Classification of Ahmadis

Pakistan's Constitution defines Muslim and non-Muslim status in Article 260(3), expressly including Ahmadis within the latter category. Sections 298-B and 298-C of the Pakistan Penal Code restrict specified religious terminology and forms of religious representation by

[19] Hum. Rts. Council Res. 6/15, ¶¶ 1–6, U.N. Doc. A/HRC/RES/6/15 (Sept. 28, 2007).
[20] Charter of the South Asian Association for Regional Cooperation arts. I–II, X, Dec. 8, 1985, https://saarc-sec.org/index.php/resources/publications/65-compilation-of-saarc-charterconventionsagreements-1985-2016/file [hereinafter SAARC Charter]. Compare Convention for the Protection of Human Rights and Fundamental Freedoms arts. 19, 34, 46, Nov. 4, 1950, 213 U.N.T.S. 221, with American Convention on Human Rights arts. 44, 61–62, 68, Nov. 22, 1969, 1144 U.N.T.S. 123.

members of the community.[21] The relationship between classification and criminal restriction makes this a particularly direct example of public authority determining the terms on which identity can be expressed.

The constitutional classification and the penal consequences require distinct analysis. Merely being placed within a minority category cannot establish that a community receives effective protection. The inquiry must examine what conduct the category permits or prohibits and whether its members can publicly express their own understanding of their faith. A protection framework that takes official classification as the endpoint risks missing the interference that classification helps organise.

Article 18 provides a central standard. Its limitation clause concerns the manifestation of religion and permits only restrictions meeting specified conditions. General Comment No. 22 explains the breadth of protected belief and warns against discrimination directed at religious minorities or newly established religions.[22] Applied to restrictions on self-description, the inquiry concerns the protected manifestation, the asserted legitimate purpose, and the necessity of the particular prohibition. State disagreement with a community's account of its religious identity cannot by itself complete that analysis.

There is a temporal distinction as well. Pakistan became a party to the Covenant in 2010. Its withdrawal of reservations in 2011 included the reservation affecting Article 18. Analysis of provisions originating earlier must explain the post-entry conduct or continuing legal effects under examination.[23] This prevents the date of enactment from substituting for an assessment of present application. It also identifies the remedial object more precisely, whether legislative reform, an end to a prosecution, or protection against a particular restriction.

The Committee's 2024 observations demonstrate that international scrutiny can address the resulting harms. It expressed concern about discrimination and violence against religious minorities and the impact of blasphemy provisions, including sections 295 and 298. It

[21] PAK. CONST. art. 260(3). Pakistan Penal Code, No. XLV of 1860, §§ 298-B to -C (Pak.).
[22] ICCPR, supra note 1, art. 18(3). Hum. Rts. Comm., General Comment No. 22 on Article 18 (Freedom of Thought, Conscience or Religion), ¶¶ 2, 8–9, U.N. Doc. CCPR/C/21/Rev.1/Add.4 (Sept. 27, 1993).
[23] U.N. Treaty Collection, International Covenant on Civil and Political Rights, ch. IV, no. 4, https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&mtdsg_no=IV-4&src=TREATY (last visited Nov. 4, 2026) (recording Pakistan's ratification on June 23, 2010, and withdrawal of reservations communicated on Sept. 20, 2011). ICCPR, supra note 1, art. 49(2).

requested legal reform, prevention, investigation, and remedies.[24] Those observations supply an international assessment and proposed action. Establishing subsequent implementation would require a separate examination of official responses, legal changes, prosecutorial practice, and the remedies actually obtained.

The comparative lesson is about the object of correction. A response limited to adding a community to a list of protected groups can leave restrictions on its members' conduct intact. A remedy must reach the rule or decision that impairs the right. International scrutiny is most useful when it identifies that rule and specifies the conduct necessary to correct the interference.

B. India and Citizenship Eligibility and Documentation

The Citizenship (Amendment) Act 2019 creates a special statutory route for specified persons from Afghanistan, Bangladesh, and Pakistan. Its criteria combine named religious communities, entry on or before 31 December 2014, and the statutory exemption conditions. It also modifies the applicable naturalisation requirement. The Citizenship (Amendment) Rules 2024 provide procedures for applications under the amended framework.[25]

The Assam NRC performs a different legal function. The official account of its publication identifies a registration exercise governed by Rule 4A and the relevant Schedule of the 2003 citizenship registration rules, with an Assam-specific historical cutoff. It records a procedure for challenging the outcome before Foreigners Tribunals.[26] Registration and a special route to acquisition should therefore be examined separately before any argument is made about their interaction.

The legal effects must also be stated carefully. Exclusion from a register raises questions about proof and the steps that follow. It does not alone establish every element of an individual conclusion about nationality, detention, or removal. Likewise, inability to use a preferential acquisition route must be distinguished from the loss of citizenship already held.

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[24] Pakistan Observations, supra note 4, ¶¶ 10–11, 46–47.

[25] Citizenship (Amendment) Act, No. 47 of 2019, §§ 2–3, 6, INDIA CODE (2019) (amending the Citizenship Act, No. 57 of 1955, § 2(1)(b), inserting § 6B, and amending the Third Schedule). Citizenship (Amendment) Rules, 2024, G.S.R. 172(E), Gazette of India, Extraordinary, pt. II, sec. 3(i) (Mar. 11, 2024).

[26] Off. of the State Coordinator, NRC, Publication of Final NRC on 31st August 2019 (Aug. 31, 2019), https://nrcassam.nic.in/pdf/English%20-Press%20Brief%2031st%20August%202019.pdf. Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, r. 4A & sched. (India).

Precision at this stage improves the discrimination analysis by identifying the particular benefit denied or adverse decision challenged.

For the statutory route, the equality question concerns the selection of beneficiaries. A state may argue that preference responds to particular patterns of persecution or historical vulnerability. The legal analysis must examine the statutory criteria against that purpose and consider the treatment of comparably situated applicants. Religion and country of origin determine the relevant categories, but the existence of a classification is the beginning of justification review. The case should be assessed through Article 26 and the applicable domestic constitutional guarantees.[27]

Documentation raises a further question about the operation of ostensibly general procedures. A requirement to prove ancestry or residence can burden people differently depending on access to records, literacy, displacement, and the ability to reconcile inconsistent documents. In a particular challenge, those effects require evidence. Relevant material includes rejection reasons, assistance available, opportunities to correct mistakes, and the capacity of appellate institutions. The legal form of a registration exercise cannot settle those practical questions.

The Committee addressed citizenship in paragraphs 55 and 56 of its 2024 observations on India. It criticised religious criteria in the amended citizenship framework, expressed concern about registration and statelessness risks, and recommended repeal or amendment consistent with the Covenant.[28] The analysis here relies on that legal assessment and recommendation. It does not use the observation's demographic estimate to establish the number or religious composition of people excluded from the Assam list.

Domestic review remains central. Articles 14, 21, 32, and 226 of the Indian Constitution provide relevant equality, personal liberty, and remedial guarantees. The Committee separately addressed domestic effect of the Covenant and encouraged India to consider accession to the Optional Protocols.[29] The practical inquiry is consequently whether an affected person can obtain a reasoned decision, timely review, and protection against an irreversible consequence while the claim is considered. Each procedural safeguard connects international criticism to a concrete form of correction.

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[27] ICCPR, supra note 1, art. 26. INDIA CONST. art. 14. See General Comment No. 18, supra note 9, ¶ 13.
[28] India Observations, supra note 4, ¶¶ 55–56.
[29] INDIA CONST. arts. 14, 21, 32, 226. India Observations, supra note 4, ¶¶ 5–6.

The case also illustrates a limit of treating minority law as a self-contained field. Protection against discriminatory citizenship rules may turn principally on equality and the rights associated with legal status. Article 27 can remain relevant to the cultural or religious consequences in a particular case, but it need not carry the entire argument. The appropriate combination of guarantees depends on the decision challenged and the relief sought.

C. Nepal and Representative Consultation

Nepal supplies a comparison concerning influence over decisions. It ratified ILO Convention No. 169 in 2007. Article 6 requires consultation through appropriate procedures and representative institutions where legislative or administrative measures may directly affect the peoples concerned. Consultation must proceed in good faith with the objective of agreement or consent. Article 7 addresses participation in development priorities and processes.[30]

These duties belong to the specific framework for Indigenous and tribal peoples. The inclusion of Nepal therefore requires comparison without equating Indigenous status with minority status. It permits examination of the institutional problem that arises when a formally recognised interest depends on a procedure designed by the state. Self-identification, representative institutions, and the scope of a proposed measure require attention under the convention's own provisions.[31]

The Nepal Constitution contains commitments to inclusion and community protection. Articles 32 and 42 address language and culture and social justice. Article 51(j) includes policies concerning Indigenous nationalities, while Article 261 establishes the Indigenous Nationalities Commission. The constitutional treatment of directive principles and policies must also be distinguished from enforceable fundamental rights, particularly in light of Article 55.[32]

That distinction helps identify the question international supervision must ask. Constitutional recognition may authorise institutions and programmes, but evaluating consultation requires a record of how affected peoples participated in a particular process. Representation in a

[30] Indigenous and Tribal Peoples Convention, 1989 (No. 169) arts. 6–7, June 27, 1989, 1650 U.N.T.S. 383 [hereinafter Convention No. 169]. Int'l Lab. Org., Ratifications for Nepal, NORMLEX, https://normlex.ilo.org (last visited Nov. 4, 2026) (recording ratification of Convention No. 169 on Sept. 14, 2007).
[31] Convention No. 169, supra note 27, arts. 1, 6.
[32] NEPAL CONST. arts. 32, 42, 51(j), 55, 261 (2015).

general elected institution does not answer every question about consultation through the peoples' own representative institutions. Conversely, consultation should be assessed against the obligation applicable to the measure, without assuming that disagreement conclusively proves breach.

The ILO Committee of Experts' observation adopted in 2024 and published in 2025 requested information about specific consultation procedures and concrete examples of their functioning. It connected that request to Article 6 and to participation through representative institutions.[33] The observation supplies evidence that an operational question remained before the supervisory body. It cannot establish that every Nepalese measure lacked consultation, but it identifies the information needed to assess performance.

The standard should shape the record. A useful account would show when consultation began, who selected representatives, what information was available, how disagreement was considered, and whether the proposal changed. It should explain how a community could challenge a failure in the process. These features make participation assessable. Their absence can leave both domestic and international reviewers unable to determine whether a constitutional commitment influenced the decision.

Nepal's acceptance of the First Optional Protocol creates a potential route for appropriate Covenant claims, subject to admissibility and jurisdiction. It does not give the Human Rights Committee general jurisdiction to determine a breach of ILO Convention No. 169 as such.[34] The distinction illustrates why access must be matched to the right alleged. Several international procedures can coexist while a claimant still faces difficulty finding a forum able to provide the particular correction needed.

V. What the Comparison Establishes

The cases place the point of decision in different institutions. Pakistan's example concerns the relationship between constitutional classification and criminal restriction. India's concerns statutory eligibility and the assessment of documentary proof. Nepal's concerns procedures for influencing measures before adoption. In each, asking only whether

[33] Nepal Observation, supra note 4 (addressing consultation under art. 6).
[34] First Optional Protocol, supra note 12, arts. 1–5. U.N. Treaty Collection, supra note 14.

international law recognises a protected interest leaves the decisive domestic process insufficiently examined.

The comparison supports three related propositions. First, the legal formulation of a claim matters. A person may have a religious freedom or equality claim even where official minority recognition is disputed. Second, access to review has its own conditions, including treaty consent, jurisdiction, admissibility, cost, and timing. Third, correction requires a domestic institution capable of taking the necessary action. Identifying a breach and securing repeal, reconsideration, or reparation are institutionally different tasks.

This argument has limits. The selected supervisory records do not supply a common dataset of implementation. They cannot establish that one mechanism causes better national outcomes or that a court would necessarily outperform political engagement. The cases also cannot establish deliberate evasion by every official involved. They establish legal questions that cross the supposed boundary between international minority protection and domestic membership decisions, while exposing the dependence of remedies on further institutional action.

A serious objection is that additional procedural review may leave the substantive restriction untouched. Reasons, hearings, and consultation can become formal exercises where the outcome is fixed. The objection is strongest when the rule itself dictates unequal treatment or prohibits protected conduct. In that setting, individual reconsideration cannot replace amendment or authoritative review of the governing rule. The appropriate remedial design must therefore permit challenges to both application and legal basis.

A second objection concerns governmental authority over nationality and constitutional organisation. International law does leave states substantial institutional choices. The Covenant nevertheless subjects their exercise to the obligations accepted by the state. General Comment No. 31 specifically rejects reliance on constitutional arrangements to excuse non-performance.[35] The proposed approach respects variation in institutional design while requiring an account of how that design delivers the protection owed.

The institutional problem can be stated as a sequence of practical questions. Can the claimant articulate the protected interest despite the official category? Can a competent body examine

[35] General Comment No. 31, supra note 11, ¶ 4.

both the decision and the rule governing it? Can relief arrive before the harm becomes irreversible? Can the responsible institution implement the outcome? This sequence directs evidence collection and makes an otherwise broad claim about weakness capable of examination in a defined case.

VI. Connecting Scrutiny to Domestic Remedies

Reform should begin with the decision that controls access to protection. Where legal status is disputed, the person should receive intelligible reasons, access to relevant records, a fair opportunity to correct errors, and affordable independent review. Where a restriction derives from legislation, a remedy must permit scrutiny of that legal basis through institutions with appropriate authority. Interim protection should be considered where delay threatens detention, removal, or serious interference with a protected practice. These are proposals for making the Covenant's remedial commitment operational in the settings examined.[36]

For consultation, a government should establish procedures with the peoples concerned and their representative institutions. A public record should explain the timing, information provided, issues raised, response, and effect on the proposal. An independent avenue should address alleged failures before implementation forecloses meaningful influence. The exact arrangements can vary, but their design should allow an external reviewer to assess whether consultation met the applicable standard.

International recommendations should identify the action requested and the institution expected to take it. A national follow-up record could connect each recommendation to the relevant legal provision, responsible authority, timetable, and evidence of implementation. Community organisations should be able to comment on that evidence. Reporting should distinguish a bill introduced from a law enacted, a law enacted from a procedure operating, and a procedure operating from relief delivered. This proposal would make claims of progress more testable without assuming that any single indicator captures full compliance.

The same discipline should guide international monitoring. Treaty bodies and peer-review participants can use earlier findings to ask focused questions about the specific rule or process. International review is more capable of supporting correction when the requested

[36] ICCPR, supra note 1, art. 2(3). See General Comment No. 31, supra note 11, ¶¶ 15–17. The procedural arrangements proposed in this Part are the author's recommendations for implementing those obligations.

information concerns a traceable decision. The record can then show whether the problem lies in disagreement about the standard, a lack of institutional power, delay, resources, or refusal to act. Each diagnosis points toward a different intervention.

Regional cooperation could develop common standards, exchanges among national human rights institutions, and access to information about remedies. A regional adjudicative mechanism would require additional political agreement, jurisdictional design, and arrangements for execution. The SAARC Charter's decision rules make the political challenge explicit.[37] Prospective regional reform should therefore be evaluated alongside the immediate responsibility of domestic institutions to provide effective protection.

VII. Conclusion

The selected South Asian cases show why minority protection must be examined through the domestic decisions that shape its exercise. Religious classification, citizenship eligibility, documentary assessment, and consultation procedures present different legal questions. International norms can address those questions through religious freedom, equality, minority protection, and the specific rights of Indigenous peoples. Selecting the appropriate guarantee is the first step toward identifying an effective remedy.

The supervisory records also show that international scrutiny can identify contested rules and request concrete reform. What follows depends on the available national procedures and the authority of the institutions responsible for implementation. The gap becomes visible where a person can invoke an international standard but cannot secure a timely decision capable of correcting the harm.

The article's contribution is a method for locating that gap. It follows the governing measure, the protected interest, access to review, the relief required, and the institution capable of delivering it. Applied carefully, this approach allows research to distinguish recognition from actual protection and to identify reforms proportionate to the problem established by the evidence.

[37] SAARC Charter, supra note 17, art. X.