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Minority Protection as Social Policy in the Global South

Structural Contradictions, Institutional Failures and Alternative Frameworks

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Abstract: This article explores minority protection in the Global South but argues that liberal rights frameworks do not easily translate into societies marked by colonial legacies, inequality and pluralistic legal systems – structural, rather than incidental, problems. Based on South Asia, Sub-Saharan Africa, Latin America and Southeast Asia, it identifies three paradoxes: recognition frameworks which entrench the identities they seek to protect; rights guarantees that coexist with institutional failure; and Western-derived international norms that clash with indigenous and collective justice systems. It also underscores how gender compounds minority vulnerability, given policymakers' flawed assumption of internal group uniformity. The paper ends by arguing for Global South frameworks, in particular plurinational constitutionalism, *buen vivir* and *ubuntu* jurisprudence, as genuine correctives, and that minority protection instruments must be rebuilt from within the histories and social contexts they serve.

Keywords: minority rights, Global South, recognition paradox, intersectionality, indigenous rights, social policy

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1. Introduction: The uneven geography of minority protection

Minority protection sits at an uneasy junction of political philosophy, international law and social policy, and nowhere does that junction strain harder than in the Global South. For roughly thirty years after the Cold War, one approach has dominated almost by default: a liberal rights architecture built from negative freedoms, anti-discrimination norms and cultural recognition entitlements, administered by states that are assumed, rather too generously, to stand above the fray as neutral arbiters. This architecture, elaborated through instruments such as the International Covenant on Civil and Political Rights (United Nations, 1966) and the UN Declaration on the Rights of Indigenous Peoples (United Nations, 2007), carries an unmistakable signature. Its intellectual lineage runs from John Locke and John Stuart Mill through John Rawls and Will Kymlicka, and that lineage matters. It shapes what the framework can see, and, just as importantly, what it cannot.

None of this is meant to suggest the tradition has nothing to offer. It plainly does. The trouble is that it has been applied, often with a kind of bureaucratic confidence that outruns the evidence, to situations it was never built to address, and its internal logic tends to distort those situations rather than illuminate them. Communities across the Global South requiring protection frequently do not resemble the liberal figure of the individual rights-bearer who joins associations by choice. Group identity, for many of these communities, is not chosen at all. It is woven into territory, cosmology and kinship in ways that simply exceed what liberal categories were built to register (Mamdani, 2020). Worse, the states charged with protecting minorities are often themselves implicated in producing minority vulnerability in the first place, whether through colonial administrative categories that outlived colonialism, post-independence nation-building projects that favoured one ethnic or religious constituency over others, or structural adjustment programs that hollowed out the institutional capacity rights enforcement needs to mean anything at all (Merry, 2006; Mkandawire, 2005).

The article proceeds through a series of linked case studies to examine the structural limits of existing minority protection systems in the Global South. It examines how colonial classification and contemporary recognition regimes shape minority identities, before investigating the link between affirmative action, redistribution, land rights and extractive development. Language and education, religious diversity, institutional capacity, and the intersection of minority status with gender are then considered. Across these cases, from India, Bangladesh, Malaysia and South Africa to Bolivia, Ecuador, Brazil, Ethiopia and Sri Lanka, the discussion demonstrates a recurring gap between formal legal guarantees and lived protection. The final section considers plurinational constitutionalism, *buen vivir* and *ubuntu* as locally grounded alternatives capable of reconnecting minority protection with historical context, collective agency, material justice and institutional accountability. Each thematic section works outward to expose the structural contradictions in the frameworks currently on offer and asks what a more adequate alternative might look like.

None of this amounts to a wholesale rejection of minority rights, and it is certainly not an invitation to romanticise whatever existed before colonisation. The argument is narrower, and I think more useful: social policy needs what Boaventura de Sousa Santos

(2014) calls an "ecology of knowledge", a pluralisation of the epistemological ground on which minority protection stands, so that its instruments are built through dialogue with the communities they serve rather than handed down to them from elsewhere.

2. Theoretical antecedents and the colonial matrix of minority categories

Any serious engagement with minority protection in the Global South has to start with a slightly uncomfortable question: Where did the category of "minority" itself come from? This is not idle genealogy. The administrative categories colonial states imposed continue, decades after independence, to determine who counts as a minority, what rights attach to that status, and which institutions get to arbitrate competing claims.

Kymlicka's (1995) well-known distinction between national minorities, with historically prior territorial claims, and ethnic minorities, who arrived through migration, is useful enough in the setting that produced it. Transplant it into a post-colonial context, though, and it runs straight into a problem it cannot solve from within its own terms: the categories of "indigenous", "settler", and "migrant" were themselves manufactured through colonial administrative practice. What looks like a primordial ethnic distinction is frequently, on closer inspection, something census enumeration, land registration and indirect rule arrangements assembled, and in some cases invented outright, by vesting authority in particular ethnic chiefs while excluding anyone who could not be sorted into the new administrative boxes (Mamdani, 2020).

The consequences of this sorting have been severe, and at times catastrophic. Belgian colonial administrators in Rwanda took a fluid, situational Hutu–Tutsi distinction and stamped it onto identity cards as fixed biological fact, a bureaucratic act that fed directly into the conditions that made the 1994 genocide possible (Prunier, 1995). British classification of caste and tribe in colonial India laid the groundwork for affirmative action programs that still structure Indian politics today. Malaysia's Bumiputera and non-Bumiputera divide, which conditions nearly every conversation about minority–majority relations in that country, traces back to colonial decisions about who counted as indigenous to the Malay Peninsula and who counted, instead, as an economic migrant (Hirschman, 1987).

Once contemporary minority protection frameworks begin treating these categories as natural social facts rather than historical inventions, they risk becoming complicit in the very hierarchies they were designed to dismantle. And here is the bind: marginalised communities often have no real alternative but to organise around the identities through which they were originally stigmatised, because those identities remain the organising grammar of both persecution and redress (Vermeersch, 2005). Charles Taylor's (1994) account of the "politics of recognition" captures something true and important: that misrecognition is a genuine injury to identity and self-worth rather than a merely symbolic slight. But Taylor's framework, drawn from Hegelian dialectics and illustrated mainly through Quebecois nationalism, has less to say about how recognition itself becomes an instrument of control. States do not simply recognise minority identities; they specify how those identities may draw their own boundaries, and they quietly incentivise communities

to perform distinctiveness in terms the bureaucracy finds legible (Fraser, 2000). One result might be called ethnic entrepreneurship, the mobilisation of identity claims toward material advantage, and it can leave the most marginalised members of a community, those unable to credibly perform the recognised identity category, without protection of any kind (James et al., 2021).

3. The paradox of recognition: Affirmative action and its discontents

South Asia offers the richest terrain for watching this paradox unfold in real time, since constitutional minority protection frameworks have been operating there for more than seven decades now, with results that refuse to sit neatly on either side of a success–failure ledger. India's reservation system, quotas for Scheduled Castes, Scheduled Tribes and Other Backward Classes across education, public employment and elected office, is the most extensive affirmative action program in the world by population covered. Its architects intended it as a transitional bridge, a temporary scaffold that would let historically excluded communities climb into structures of opportunity from which they had long been barred (Jaffrelot, 2003).

Seven decades on, what can be said honestly is that the results are mixed, genuinely mixed rather than diplomatically so. Reservations produced a Dalit professional and political class that simply did not exist before independence. They opened social mobility for millions of families and fed political movements that, in certain states, reshaped democratic competition from the ground up (Deshpande, 2011). It is hard to picture Bihar's political transformation under Lalu Prasad Yadav, or the rise of the Bahujan Samaj Party as a major force in Uttar Pradesh, without the political consciousness this system helped cultivate (Jaffrelot & Kumar, 2009).

And yet the shortcomings are just as well documented, and they are not minor. Reserved positions have disproportionately benefited the least disadvantaged members of disadvantaged groups, while the most marginalised sub-communities within Scheduled Caste and Scheduled Tribe categories remain largely untouched by a policy meant to help precisely them (Deshpande, 2011). Stigma attached to reservation status has, in some settings, intensified rather than faded, producing distinctive humiliations in classrooms and workplaces that beneficiaries carry quietly, often for a lifetime (Thorat & Newman, 2010). And the very act of hardening caste identity through the reservation system has fed a competitive caste politics in which material concerns are routinely subordinated to identity mobilisation, a dynamic surely not what the framers of the policy intended.

Malaysia's New Economic Policy, introduced after the ethnic violence of 1971, pursued similar aims and ran into a strikingly similar wall. The NEP did raise Malay participation in business and the professions, but the gains flowed overwhelmingly to already affluent Malay business families rather than to the rural poor the policy was ostensibly designed to lift (Gomez & Jomo, 1997). Extending the policy well past its original twenty-year horizon fed lasting resentment among Chinese and Indian Malaysian communities, hardening the very ethnic political mobilisation that has periodically shaken Malaysian democracy since.

There is a pattern worth naming plainly here: recognition-based policies deliver real gains to some, while at the same time generating countervailing effects that blunt their transformative promise. Fraser's (2000) observation that the tension between recognition and redistribution is a built-in feature of contemporary social policy, not a temporary glitch to be engineered away, captures this precisely. Any minority protection framework that offers identity recognition while leaving the material foundations of disadvantage untouched will produce, at best, gains that are marginal and easily reversed.

4. Land, labour and the economic dimensions of minority vulnerability

There is nothing accidental about the link between economic marginalisation and minority status, and it cannot be reduced to cultural prejudice alone. Across the Global South, indigenous and ethnic minority communities cluster disproportionately in rural areas, depend heavily on natural resource-based livelihoods, and sit exposed to the dispossessive pressures of extractive capitalism in ways that formal rights language routinely fails to capture. Minority protection, put simply, cannot be treated as a purely cultural or legal matter. It demands sustained attention to political economy, or it is not really addressing the problem at all.

Bolivia under Evo Morales once looked like a genuine attempt to fuse indigenous rights with redistributive economic policy. The 2009 Constitution, among the most ambitious plurinational documents ever adopted, recognised thirty-six indigenous nationalities, enshrined collective territorial rights, and folded indigenous legal systems into a plural legal order (Postero, 2017). And yet the same government pursued an aggressive extractivist development strategy that undercut those very commitments. The TIPNIS conflict, in which the state pushed to build a highway through indigenous territory over the explicit objection of the affected communities, and in open defiance of the constitutional requirement of free, prior and informed consent, put the contradiction on full display (Becker, 2011).

Bolivia is not an outlier here. It is closer to the norm. Ecuador adopted a plurinational constitution in 2008 and recognised the rights of nature, or *Pachamama,* while simultaneously expanding oil extraction in the Amazon with barely any consultation worth the name (Lalander, 2014). Peru's 2011 Law of Prior Consultation, meant to implement ILO Convention C169, has in practice produced bureaucratic consultation processes that critics describe as legitimising extraction rather than granting indigenous communities anything resembling real veto power over development decisions (Flemmer & Schilling-Vacaflor, 2016).

South Africa shows a related tension in a different key. The post-apartheid constitutional settlement made room for land reform and recognised customary law, yet land redistribution has crawled forward far more slowly than anyone anticipated, and the "willing seller, willing buyer" model has proven wholly inadequate to the scale of historical dispossession it was supposed to redress (Hall, 2004). The San, southern Africa's most marginalised indigenous minority, illustrate the gap starkly: formal constitutional recognition of cultural rights sits alongside deep material poverty, exclusion from ancestral lands, and dependence on state welfare that shows no sign of easing (Robins et al., 2001).

Brazil's *quilombola* communities make the point with particular force. Article 68 of the 1988 Constitution guaranteed land rights to the descendants of escaped slaves who founded maroon settlements, yet by the mid-2010s, fewer than 150 of roughly 3,000 recognised communities had actually received land titles (Farfán-Santos, 2016). Legal challenges from agribusiness, administrative foot-dragging and organised resistance from landowner interests have, between them, more or less gutted a constitutional guarantee that reads, on paper, as unambiguous. The Bolsonaro Government's subsequent dismantling of FUNAI and INCRA showed how quickly minority gains can be unwound once political conditions shift underneath them.

What these cases expose, taken together, is a deeper flaw in liberal minority rights thinking: its habit of imagining the state as a neutral guarantor of rights rather than as an actor with its own economic interests and class loyalties. When state institutions are captured by, or simply aligned with, interests that profit from dispossessing minority communities, formal rights guarantees offer little protection unless sustained political mobilisation stands behind them. The social policy takeaway is uncomfortable but necessary: minority protection cannot be confined to legal architecture. It has to reckon with the political economy of the state itself, and with the conditions under which enforcement becomes structurally possible in the first place, rather than merely written into a statute book and left there.

5. Language, education and the politics of cultural survival

Language policy is among the most emotionally and politically loaded dimensions of minority protection, particularly in post-colonial settings where the colonial administrative language remains the vehicle of state power, higher education and economic advancement decades after formal empire ended. The stakes here are existential rather than merely practical. Language is not just a form of information sharing; it carries cultural knowledge, legal tradition and intergenerational memory. When a minority language is marginalised, an entire way of knowing the world is at risk of being lost and often irreversibly (Skutnabb-Kangas, 2000; Meighan, 2024).

South Africa's post-apartheid language policy remains one of the most ambitious multilingual frameworks ever enacted. The 1996 Constitution named eleven official languages and created a Pan South African Language Board to encourage language diversity (Chapter 1, Section 6). And yet the distance between constitutional aspiration and everyday reality remains enormous. Despite formal recognition of nine African official languages, English continues to dominate higher education, the courts, parliament and the corporate economy almost completely. African language speakers find they have the cognitive cost of learning to master the challenge of complex information in a language they have not yet mastered; this is a linguistic dual economy that tracks the reproduction of long-standing racial/class inequality with alarming accuracy (Heugh, 2006; Rosa & Flores, 2023).

Nigeria presents a related but distinct configuration. With over five hundred languages, three major regional *lingua francae,* and English as the official language of governance, Nigerian language policy has long struggled to serve national unity, regional equity, and

minority protection all at once, and it has not managed any of the three particularly well. The National Policy on Education mandates mother tongue instruction in early primary grades, but implementation has consistently faltered on teacher training, materials development, and basic administrative follow-through (Bamgbose, 2000). Smaller language communities, and Nigeria has dozens with fewer than ten thousand speakers, have essentially no educational protection whatsoever. Their languages are absent from schools entirely and are eroding quickly under pressure from the dominant regional *lingua francae*.

There is a deeper question tangled up in all of this about which knowledge systems get to count as legitimate within state institutions. Mignolo (2009) argues that colonialism was not only political and economic domination but also epistemic violence, a systematic devaluation of non-European ways of knowing. Curricula that centre Western scientific and historical knowledge while sidelining indigenous epistemologies keep colonial knowledge hierarchies alive inside post-colonial institutions, whatever flag happens to be flying over the building. The "Rhodes Must Fall" and "Fees Must Fall" movements that erupted in South African universities in 2015 demanded something more than access to existing institutions. They demanded a rethinking of what counts as knowledge worth teaching in the first place.

6. Religious minorities and the limits of secular governance

Protecting religious minorities is especially contested in Global South contexts where religion plays a constitutive role in public life, state legitimacy and social organisation, a role the secular liberal framework is not well equipped to analyse, let alone prescribe solutions for. The liberal answer, a neutral secular state that protects private religious expression while declining to privilege any single faith in public life, emerged from a particular set of European historical circumstances. It does not transplant easily into contexts built around a very different relationship between religious and political authority.

Malaysia illustrates the problem of religiously plural governance with unusual clarity. Its constitution guarantees religious freedom to all Malaysians while simultaneously designating Islam as the religion of the federation and granting Bumiputera Muslims special privileges. Non-Muslim minorities therefore enjoy formal constitutional protections that coexist, somewhat awkwardly, with systemic discrimination in public life (Moustafa, 2018). The expansion of Sharia jurisdiction into civil law matters, particularly around religious conversion and family law, has introduced real legal uncertainty for non-Muslim communities who find themselves subject to a jurisdiction they did not choose and cannot easily exit.

Pakistan's Ahmadi community shows just how thoroughly formal constitutional protections can be nullified by subsequent legislative and judicial change. Ahmadis consider themselves Muslim, but their theological positions are treated as heretical within orthodox Sunni jurisprudence. They were constitutionally declared non-Muslims in 1974 and made subject to blasphemy provisions that effectively criminalise the routine practice of their own faith (Zaman, 2018). Constitutional guarantees of religious freedom notwithstanding, the Pakistani state has systematically failed to protect Ahmadis from mass violence, from

the targeted killing of community leaders, and from a legal architecture built, in effect, for their exclusion.

Nigeria's rough north–south split between a Muslim majority and a Christian majority has generated enduring disputes over Sharia implementation, over the boundary between civil and customary law, and over what religious identity means for citizenship itself. The adoption of Sharia criminal law in twelve northern states beginning in 1999 sparked intense constitutional controversy and created real insecurity for Christian minorities living within those states (Ostien, 2007). Federal intervention has stayed limited, constrained by the political cost of challenging what state governments frame, with some rhetorical success, as a matter of religious sovereignty.

Bangladesh's Hindu minority offers a quieter but no less telling demonstration of how minority vulnerability reproduces itself even under a constitution that is officially secular. Hindus made up roughly 22% of the Bangladeshi population at independence; by the 2020s, that figure had fallen to somewhere between 8–9% (Riaz, 2016). This is not a natural demographic drift. It reflects episodic communal violence, structural economic discrimination, and the long operation of the Vested Property Act, which allowed the state to confiscate Hindu family properties outright (Barkat, 2011). Constitutional amendments reinstating Islam as a state religion in 1977 and 1988, and periodic anti-Hindu violence that has at times been turned to electoral advantage, serve to call into question the promise of secular nationalism as a measure to protect the minorities (van Schendel, 2009; Guhathakurta, 2012; Sadia, 2024). Security forces show up late, or not at all. Perpetrators face little in the way of accountability. And beneath a formal architecture of religious freedom, a slow demographic displacement simply continues, largely unremarked.

India's Muslims, roughly 200 million people, or 14% of the population, occupy an analogous position: formal constitutional protection sitting alongside deep structural marginalisation. The Sachar Committee Report (Government of India, 2006) found that Indian Muslims lag behind Scheduled Castes and Scheduled Tribes on a range of development indicators, a finding all the more striking because Muslims, unlike those groups, receive no benefit from affirmative action policy. Religious freedom was written into the constitution. The structural economic disadvantage that so often travels alongside religious minority status was not.

India's trajectory since 2014 has sharpened these contradictions considerably. The consolidation of Hindu nationalist politics under the BJP has produced a cumulative set of legislative and administrative measures: the 2019 Citizenship Amendment Act, which excludes Muslims from its refugee provisions; the National Register of Citizens exercise in Assam, which left approximately 1.9 million people, overwhelmingly Bengali-speaking Muslims, without citizenship documentation; and a pattern of "cow vigilantism" violence that has proceeded with what looks very much like impunity (Roy, 2021; Alaa et al., 2022; Human Rights Watch, 2019).

Taken together, these South Asian cases point toward something Van der Veer (1994) identified years ago as a constitutive feature of the secular state itself: religious nationalism is not a deviation from secular modernity but one of its characteristic products. There is no secular state standing somehow outside religious competition. It is produced through that competition, not despite it. The standard liberal prescription of neutral secular

governance is, at best, a partial answer to minority vulnerability wherever the state itself is a battleground of religious political contest. Chatterjee's (1993) observation that Indian nationalism produced a distinctive configuration of public and private life, one in which religion remains a legitimate object of community regulation rather than purely individual practice, holds in varying registers across much of the Global South. It suggests that importing European secularist prescriptions wholesale is more or less bound to fail.

7. Gender, intersectionality and the limits of group rights frameworks

One of the most persistent failures of minority protection policy is its habit of treating minority groups as internally undifferentiated, as though every member experienced vulnerability identically and to the same degree. This assumption quietly obscures how gender, class, age, disability and sexuality all mediate minority experience, producing intersectional forms of disadvantage that single-axis frameworks simply cannot register. Crenshaw's (1989; 1991) concept of intersectionality, developed originally to describe Black women's experience in the United States, has been extended by scholars working across the Global South to illuminate layered marginalisation that is, in several of these contexts, more severe than what Crenshaw was originally describing.

Dalit women in India sit at the very bottom of a hierarchy shaped by the intersection of caste and gender. They face discrimination as women within Dalit communities, as Dalits within mainstream women's movements, and compounded disadvantage in nearly every interaction with dominant-caste actors. Dalit women in Nepal experience rates of sexual violence, labour exploitation, and restricted access to public space that substantially exceed those faced by both non-Dalit women and Dalit men (Adhikari & Tamang, 2010; Khatri, 2021). And here is the design flaw: they inhabit a legal framework that treats Dalit rights as collective entitlements and gender rights through a separate set of women's rights provisions, so the harm arising specifically from the interaction of these two categories has nowhere, institutionally speaking, to go.

India's national crime data consistently show Dalit women overrepresented among victims of sexual violence, including caste-based sexual violence deployed as a form of collective punishment against an entire community, a category of harm that finds no adequate home in either mainstream feminist advocacy or Dalit rights organising (Human Rights Watch, 1999). When these cases reach the criminal justice system, Dalit women face a stacked set of disadvantages: scepticism toward their testimony, police reluctance to register complaints against dominant-caste perpetrators, and social pressure in which asserting one's rights risks retaliation against the entire household, not just the individual who spoke up.

Indigenous women across Latin America face comparable intersectional vulnerabilities, though the specific mechanisms differ. Guatemala's femicide crisis, which produces some of the highest rates of gender-based killing anywhere in the world, disproportionately affects indigenous Mayan women through a set of interlocking structures: the legacy of civil war and the military's systematic use of sexual violence against indigenous communities

during that conflict; economic marginalisation that limits access to justice institutions; and patriarchal authority within some indigenous communities that suppresses women's political and economic autonomy from within (Hartviksen, 2022; Carey & Torres, 2010).

The tension between group rights and women's rights inside minority communities poses a genuinely difficult policy problem, and it is worth resisting the temptation to resolve it too quickly. Indigenous rights advocates have rightly insisted on communities' right to govern themselves according to their own legal traditions, and liberal interventions that override customary law in the name of gender equality have, historically, served as convenient pretexts for undermining indigenous autonomy more broadly. And yet some customary practices, such as child marriage, inheritance rules that disadvantage women, or restrictions on women's participation in community governance, do real and serious harm. Benhabib's (2006) idea of "democratic iteration", in which communities engage in their own internal deliberation about whether their practices square with democratic norms, offers one way through this. But it assumes conditions of internal democratic deliberation that may simply not exist in communities where women's voices are already systematically suppressed, which is precisely the situation the concept is meant to address.

Muslim women in India show the problem with particular sharpness. They straddle three categories at once, religious minority status, gender subordination and class disadvantage, yet the legal protection regimes nominally addressing each of these operate largely in isolation from one another. The constitutional guarantee of religious freedom has historically shielded Muslim personal law's jurisdiction over marriage, divorce and inheritance, even where those rules disadvantage Muslim women quite directly. The long controversy over instantaneous triple *talaq,* resolved by the Supreme Court's 2017 ruling in *Shayara Bano v. Union of India* and the subsequent Muslim Women (Protection of Rights on Marriage) Act of 2019, dealt with one flashpoint while leaving intact the broader structures of Muslim women's disadvantage in both family law and the labour market (Narain, 2021; Parveen, 2024).

The Sachar Committee found Muslim women's workforce participation rates among the lowest of any religious-gender group in the country, a finding that reflects restricted mobility under conditions of communal tension, concentration in informal home-based work carrying no legal protection at all, poor access to public educational institutions, and the corrosive effect of periodic communal violence on household economic security (Government of India, 2006). Minority protection law, women's rights law and labour law each address one axis of this compound disadvantage, but the harm arising specifically from all three operating together falls into the space between them. This is not simply a design failure in the law. It is a political economy problem too, since the constituencies capable of demanding effective enforcement for Muslim women are split between religious minority organisations that prioritise community autonomy and mainstream feminist organisations that have historically been reluctant to foreground minority women's specific vulnerabilities (Agnes, 2011).

Adivasi women in India's central and northeastern states offer yet another variant of the same underlying problem. Mining and infrastructure expansion into Adivasi territories in Jharkhand, Chhattisgarh and Odisha produces displacement that falls disproportionately on women, who carry primary responsibility for subsistence agriculture and household food security (De, 2020; Banday & Dixit, 2024). The Forest Rights Act of 2006 formally

recognised both individual and community forest rights but has consistently failed to do so in the titling stage itself; it has consistently left no record of women's rights, the vast majority of these titles being issued only in men's names (individually), or jointly only if the struggle of feminists forced the issue (Zaidi, 2019; Ramdas, 2009; Gupta et al., 2022). Resettlement carries its own gendered harms: the breakdown of community social structure exposes women to elevated domestic violence, the shift toward cash economies that men tend to control reduces women's economic autonomy, and the loss of access to forest resources eliminates the informal safety net women had long relied on to manage household food insecurity.

Sri Lanka's Tamil minority women carried a distinctive double burden during the armed conflict between the LTTE and the Sri Lankan state, as members of an ethnic minority subject to state discrimination and, simultaneously, as women within a nationalist movement that mobilised them for combat while subordinating their gender-specific claims to the overriding demand of national liberation (de Mel, 2007). The war's end in 2009 did not resolve this so much as reconfigure it: living under military occupation, facing restrictions on movement and livelihood, heading conflict-affected households whose male members had been killed or disappeared, and navigating a post-war reconstruction process dominated by Sinhalese administrators with essentially no Tamil women's participation at all (Jayasundara-Smits & Subedi, 2024; Withanawasam, 2021).

What the South Asian evidence shows, taken as a whole, is that intersectional vulnerability produces qualitatively distinct forms of harm rather than a simple addition of separate disadvantages. The negative effects stem from the complex interactions of various forms of marginalisation within specific political and institutional contexts (Banerjee & Ghosh, 2018; Haq, 2013; Bouakaz & Khalid, 2025). The policy implication is not that minority protection frameworks need a bit more gender sensitivity sprinkled on top. It is that intersectional analysis has to be built into the substantive foundations of rights frameworks from the outset, rather than bolted on afterwards as an afterthought. Effective protection requires mechanisms ensuring that the most marginalised members within minority communities, women, persons with disabilities, sexual minorities and the economically destitute, have real access to both internal community mechanisms and external state and civil society channels for addressing injustice.

8. Institutional capacity, implementation deficits and the gap between law and life

The gap between formal rights provisions and lived social reality runs through this entire analysis like a fault line. It would be a mistake, though, to treat this gap as primarily a problem of legal drafting, as though better-written statutes would resolve it on their own. Legal frameworks can certainly be improved. But the gap itself is really a signal of something else: underlying institutional capacity deficits, failures of political will, and resource allocation patterns that together determine whether formal rights ever translate into anything a person can actually rely on when it matters.

The concept of "institutional voids" (Khanna et al., 2010) is useful here. States across the Global South frequently lack the dense institutional infrastructure that effective rights enforcement requires: well-resourced and accountable courts, adequately staffed police forces, social service sectors able to identify and respond to minority vulnerability, and civil society organisations capable of sustaining accountability pressure over the long haul. In this kind of institutional landscape, even a comprehensive minority rights regime can end up functioning as law on paper, generating compliance costs and rent-seeking opportunities for those positioned to exploit them, while producing little in the way of real-world consequences for anyone else (Ahmed, 2025; Kostadinova, 2011).

Land entitlements for indigenous communities across Sub-Saharan Africa show this dynamic with unusual clarity. Many African countries have enacted constitutional and statutory provisions recognising customary land tenure for indigenous and minority communities, often partly in response to donor and civil society pressure. But the effective security of customary tenure depends entirely on local administrative and judicial institutions, land tribunals, customary courts and district offices that are chronically underfunded, staffed by poorly qualified officials, and vulnerable to elite capture (Boone, 2014; German et al., 2013). Wherever commercial interests seek access to customary land, these protective institutions tend to fail at precisely the moment they are most needed, which is not really a coincidence at all.

Ethiopia's treatment of indigenous minorities in the Lower Omo Valley, the Mursi, Nyangatom and Bodi communities, is particularly disturbing on this score. Under a federal constitutional architecture that explicitly recognises indigenous rights, the Ethiopian state forced tens of thousands of indigenous people off their ancestral lands to make way for sugar plantation development, offering minimal compensation and even less consultation (Bassi, 2014; Zikargie & Cochrane, 2022). The absence of independent judicial review, the ruling party's dominance over regional councils, and a development agenda that consistently outranked constitutional compliance produced outcomes that ran directly against the constitution's own stated aims. The distance between law and life here was not a failure of legal drafting. It reflected a political structure in which rights enforcement had become, quite simply, inconceivable from the start.

These findings carry real weight for how we understand minority protection as a social policy challenge. Rights advocacy focused mainly on legal and constitutional architecture that can win meaningful symbolic victories while leaving implementation gaps entirely unaddressed. A more honest approach has to reckon simultaneously with legal frameworks, institutional capacity, political economy, and the conditions under which civil society organising actually generates accountability pressure, because a legal instrument does more than enforce rights directly. It also functions as a legitimation tool and a signal of values, which means minority rights frameworks can succeed, or fail, through channels well beyond direct legal enforcement (Bardakci et al., 2017; Saban, 2005).

9. International law, global governance and the limits of liberal universalism

Since the Second World War, the international legal framework for minority protection has grown considerably from the fairly modest provisions of the ICCPR through UNDRIP (2007) and regional instruments such as the Framework Convention for the Protection of National Minorities (1995). International accountability mechanisms, the Universal Periodic Review, treaty body reviews, Human Rights Council special procedures add further layers of pressure on paper. Yet how effective these mechanisms actually are in protecting minorities in the Global South remains, to put it mildly, inconsistent.

The structural reasons for this are not mysterious. International human rights law rests on state consent and voluntary compliance, which gives governments considerable room to evade real scrutiny. States can ratify treaties with reservations that quietly gut substantive commitments, submit periodic reports that misrepresent conditions on the ground, and treat their human rights obligations as matters of reputation rather than compliance (Hafner-Burton & Tsutsui, 2005). The penalty for violation is typically reputational censure, and that is a cost many governments can absorb without much difficulty, particularly when domestic constituencies actively support the very policies being censured.

There is a deeper critique buried in the epistemic foundations of international minority rights law itself. Its core architecture, individual rights, state neutrality, a sharp public–private distinction, culture treated as a right separable from economic and political self-determination reflects a specific set of Western liberal assumptions that translate poorly wherever the foundational premises differ. UNDRIP, though developed through substantial indigenous expert consultation, still operates within a paradigm that treats indigenous peoples as rights-bearing entities within existing state systems, rather than as peoples with pre-existing sovereignty and governance practices of their own (Corntassel, 2008).

This tension becomes acute in the Free, Prior and Informed Consent framework embedded in ILO Convention 169 and UNDRIP. FPIC was meant to guarantee indigenous communities meaningful agency over decisions affecting their own territories. In practice, it has increasingly been implemented as a procedural box to check, with states running *pro forma* consultation processes that produce nicely documented consent records without ever enabling authentic indigenous veto power (Flemmer & Schilling-Vacaflor, 2016; Hofbauer, 2022). There is a further conceptual snag worth naming: the liberal notion of "consent" presupposes an individual or corporate decision-maker capable of granting or withholding assent, whereas much indigenous governance operates through consensus-based, relationship-based processes that this model simply misreads from the outset.

World Bank environmental and social safeguard policies complicate matters further still. The 2018 Environmental and Social Framework folds in indigenous rights provisions that have become conditions attached to project finance across the Global South. Critics argue, not without justification, that these provisions are structured to legitimise development projects rather than protect indigenous interests, with consultation processes engineered to produce legible consent rather than enable authentic participation (Lewis & Söderbergh, 2019; Merino, 2018). The colonial dynamics embedded in development financing have

not gone away. They have simply been rearticulated inside a rights discourse that can just as easily validate extractive development as it can constrain it, which is perhaps the most sobering finding in this whole area of inquiry.

10. Alternative frameworks: Plurinational constitutionalism, *ubuntu* and *buen vivir*

All of this raises an obvious question. If the prevailing framework carries these structural contradictions, what should replace it, or supplement it? It would be dishonest to pretend the existing framework has achieved nothing. It has produced real, tangible benefits for real communities. The task, then, is to build on what works while reconstructing what fails systematically, and to do so by drawing on frameworks the Global South itself has produced, rather than importing yet another set of prescriptions from elsewhere.

The most ambitious institutional experiment of such a kind is found in Bolivia and Ecuador's plurinational constitutionalism (de Sousa Santos, 2023). The constitutional reforms adopted in 2008 and 2009 did not merely recognise indigenous rights within an otherwise unchanged liberal state. They reconceived the state itself as plurinational, composed of multiple nations, each with its own legal order, governance system and territorial relationship to the whole. Bolivia's constitution recognises thirty-six indigenous nationalities as constitutive members of the plurinational state and formally incorporates indigenous justice systems, a genuine departure from the liberal nation state's usual monopoly on political membership (Schilling-Vacaflor, 2011).

These constitutional innovations represent serious attempts to address the limits of liberal minority rights thinking from within, rather than by importing solutions wholesale from outside. But the TIPNIS conflict and Ecuador's continued extractive policies show, rather painfully, that constitutional text alone cannot produce social transformation. Plurinational frameworks can coexist with, and even provide political cover for, policies that harm the very communities they claim to protect. As de Sousa Santos (2014) observes, *buen vivir* as a constitutional principle sits in profound tension with the extractivist development model that both the Bolivian and Ecuadorian governments have continued to pursue, principle and practice pulling in opposite directions even as both are affirmed in the same breath.

Even so, *buen vivir* merits sustained attention as a way of thinking about the future for minority protection and development policy more generally, as well (de Sousa Santos & Meneses, 2020). Rooted in Andean indigenous traditions, it articulates an idea of the quality of life based on relational well-being, ecological balance and community solidarity, not individual accumulation and endless economic growth. As a governance framework, this means rejecting GDP growth as the primary metric of development, taking the quality of human relationships with the ecological world seriously, and honouring the knowledge systems indigenous communities have built over generations to manage their own territories (Gudynas, 2011). None of this is a romantic rejection of modernity. It is a serious response to the real inadequacies of growth-based development models, inadequacies that the ecological crisis has made painfully visible for societies well beyond the Global South.

Ubuntu, the southern African philosophical principle often rendered as "I am because we are", offers a distinct but convergent contribution (Cornell & Muvangua, 2012). *Ubuntu* jurisprudence draws on communitarian African ethical traditions to articulate a relational, rather than individualist, conception of rights: rights not as protections for atomised individuals warding off collective encroachment, but as expressions of social relationships through which personhood itself takes shape. Applied to minority protection, an *ubuntu* framework would centre policy on the quality of relations between majority and minority communities, rather than on the legal status of individual rights-bearers, and it would draw attention to the social and institutional conditions under which genuine dignity and mutual recognition can actually be sustained over time.

None of this is to suggest these frameworks are free of their own tensions, and it would be naive to pretend otherwise. Both *buen vivir* and *ubuntu* emerged from specific cultural environments and universalising them carelessly risks replicating the very imperialism they set out to critique. Either can be, and sometimes has been, deployed to legitimise patriarchy or suppress internal dissent under the banner of cultural authenticity. And translating these ideas into institutional social policy raises genuinely hard questions. How does one operationalise relational well-being inside a public administration built for something else entirely? How does one adjudicate a conflict between *ubuntu* values and an individual rights claim without simply reinstating liberal paradigms through the back door? These are real questions, and their difficulty is a reason for careful, humble engagement with these traditions, not a reason to set them aside.

Buen vivir and *ubuntu* can extend minority protection beyond individual rights to collective and relational goods. But they work best as complements to liberal checks and balances rather than as a replacement. They are all about political will, resources and community ownership. Where these exist, outcomes can be meaningful: greater involvement, not just punitive remedies, and protection of land and culture. When they do not, they will become language that legitimises the same inequalities.

11. Conclusion: Beyond the architecture of inadequacy

The evidence assembled here converges on a diagnosis that calls for something more than academic hand-wringing. Liberal minority rights frameworks have real achievements to their credit. They have provided legal grounds for challenging discrimination, opened political space for minority communities to organise, produced Dalit legislators and indigenous professionals who now advocate from inside institutions that once excluded them entirely, and established international accountability mechanisms that have at least partially constrained the worst state violations. These gains are real, and it would be dishonest to wave them away.

But they are partial. They are unstable. And they remain persistently vulnerable to reversal under political pressure, precisely because the frameworks producing them rest on foundations that do not reflect the social realities of the communities they are meant to protect. The recognition paradox, the trade-off between recognition and redistribution,

the implementation gap, the blind spot around intersectionality, the complicity of nominally neutral states in minority dispossession: none of these are incidental failures. They are structural features of a framework being applied well beyond the conditions under which it actually makes sense.

A reconstructed social policy framework needs five fundamental reorientations, and none of them are optional extras. First, minority protection frameworks must be built with explicit attention to the historical processes through which minority categories were produced in the first place, with mechanisms built in for contesting categorical boundaries and recognising the internal heterogeneity that exists within every minority community. Second, cultural and identity-based rights must be integrated with serious attention to economic redistribution, since recognition without redistribution tends to produce elite capture while leaving the most marginalised exactly where they started. Third, international frameworks must be developed through genuine dialogue with affected communities, taking seriously the alternative frameworks, plurinational constitutionalism, *buen vivir, ubuntu* jurisprudence, that have emerged from within the Global South as serious theoretical contributions rather than ethnographic curiosities to be admired from a distance. Fourth, intersectional vulnerability must be treated as a foundational design principle rather than an afterthought, so that frameworks meant to protect communities do not simultaneously reproduce hierarchies within them. Fifth, social policy analysis must attend rigorously to implementation, to institutional capacity, political will and accountability structures, recognising all the while that the gap between formal rights and lived experience is a political economy problem just as much as it is a legal design problem.

The alternative to this reconstruction is simply more of the same: continuing to apply frameworks whose limitations are, by now, thoroughly documented, to contexts that have always needed something more adequate. That alternative is not merely analytically weak. It amounts to a kind of abandonment, the perpetuation, dressed up in the language of rights, of the very conditions minority protection was supposed to remedy in the first place. The communities whose lives and futures are at stake are not waiting patiently for the framework to be perfected somewhere in a seminar room. They are living, and in some cases dying, inside its inadequacies right now. The obligation to rebuild these frameworks is not an abstract academic exercise. It is urgent, and, if we are honest with ourselves, the time for it has already passed.

Artificial Intelligence Statement

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