

Contents

Part I The Framework

1	Introduction	3
1.1	Research Question and Approach	4
1.2	Framework	6
1.3	Terminology	8
1.4	Structure	11
	References	13
2	The International Relations Framework	15
2.1	Liberalism	18
2.2	Regimes, Governance and Institutions	20
	Conclusion	23
	References	24
3	Classic Sources on Minority Rights and Self-Determination	27
3.1	Treaties	28
3.1.1	Minority Rights in Treaties	28
3.1.2	Self-Determination in Treaties	34
3.1.3	Intermediate Conclusion	36
3.2	Customary International Law	37
3.2.1	Classic Customary International Law	37
3.2.2	Modern Customary International Law	41
3.2.3	Intermediate Conclusion	43
3.3	Other Sources of International Law	43
	Conclusion	45
	References	45

4	Non-State Actors and Non-Binding Instruments	49
4.1	International Governmental Organizations as Non-State Actors	50
4.1.1	Taking International Governmental Organizations Seriously	51
4.1.2	Criteria for International Organizations	53
4.1.3	Overview of International Governmental Organizations	57
4.2	Non-Binding Instruments	64
4.2.1	Non-Binding Instruments Under Classic International Law	65
4.2.2	Inefficient Treaty Law	70
4.2.3	Criteria for Non-Binding Instruments	71
4.2.4	Overview of Non-Binding Instruments	72
	Conclusion	82
	References	84
5	Legitimacy and Justice	89
5.1	Legal Positivism and Sources Doctrine	90
5.2	Legitimacy	93
5.3	Justice	99
5.4	The Original Position, Minorities and Self-Determination	105
	Conclusion	111
	References	111
6	Legitimacy and Justice of Non-Binding Instruments	115
6.1	Summary of the Criteria of Legitimacy and Justice	116
6.2	The UN Minority Declaration	117
6.2.1	Legitimacy of the UN Minority Declaration	117
6.2.2	Justice of the UN Minority Declaration	118
6.3	The Copenhagen Document	120
6.3.1	Legitimacy of the Copenhagen Document	120
6.3.2	Justice of the Copenhagen Document	122
6.4	Resolution 1541	123
6.4.1	Legitimacy of Resolution 1541	123
6.4.2	Justice of Resolution 1541	126
6.5	The Friendly Relations Declaration	127
6.5.1	Legitimacy of the Friendly Relations Declaration	127
6.5.2	Justice of the Friendly Relations Declaration	129
	Conclusion	130
	References	133

Part II Key Concepts

7	Minority Rights	137
7.1	A History of Minority Rights	138
7.1.1	The Beginnings of Minority Protection in Europe . . .	138
7.1.2	Post World War I: The Minority Treaties	140
7.1.3	Minority Protection in the League of Nations	142
7.1.4	Intermediate Conclusion	146
7.2	The Concept of Minority Rights	147
7.2.1	The Collective Dimension	148
7.2.2	Equality and Non-Discrimination	152
7.2.3	Minority Rights as Additional Rights	153
7.3	Further Characteristics and Challenges of Minority Rights . . .	154
7.4	On the Necessity of Minority Rights	156
	Conclusion	157
	References	157
8	Minority, People, Nation	161
8.1	Minority Definition	162
8.1.1	National vs. Ethnic, Religious and Linguistic Minorities?	163
8.1.2	The Nationality Requirement	166
8.1.3	Characteristics and Recognition of Minorities	169
8.1.4	Subjective Factors	170
8.1.5	Detecting Minorities via Historical Threats	172
8.1.6	Intermediate Conclusion	173
8.2	Minority, People, Nation	174
8.2.1	Indigenous Peoples	175
8.2.2	Peoples	176
8.2.3	Nations as a Link	178
	Conclusion	181
	References	182
9	Understanding Self-Determination	185
9.1	The Historical Perspective	185
9.1.1	The Nineteenth Century	186
9.1.2	World War I: Self-Government and Self-Determination	188
9.1.3	Self-Determination During the Cold War	190
9.1.4	Self-Determination Today	191
9.2	Conceptual Issues	193
9.2.1	External and Internal Self-Determination	194
9.2.2	Underlying Thoughts on Self-Determination	199
9.2.3	Self-Determination as Result or Process	201

9.2.4	The Nature of the Right to Self-Determination	202
9.2.5	Self-Determination for a Nation, a People and for Whom Now?	205
9.3	The Content of Self-Determination	207
9.4	Self-Determination, Minorities and Minority Rights	211
	Conclusion	214
	References	216
Part III The Analysis		
10	Minority Rights and Internal Self-Determination	223
10.1	The Right to Identity	227
10.1.1	Legitimacy of the Right to Identity	228
10.1.2	Justice of the Right to Identity	229
10.1.3	The Right to Identity and Self-Determination	231
10.2	The Right to Language	232
10.2.1	Legitimacy of the Right to Language	233
10.2.2	Justice of the Right to Language	236
10.2.3	The Right to Language and Self-Determination	237
10.3	The Right to Cross-Frontier Contacts	238
10.3.1	Legitimacy of the Right to Cross-Frontier Contacts	239
10.3.2	Justice of the Right to Cross-Frontier Contacts	241
10.3.3	The Right to Cross-Frontier Contacts and Self- Determination	242
10.4	The Right to Participation	243
10.4.1	Legitimacy of the Right to Participation	246
10.4.2	Justice of the Right to Participation	249
10.4.3	The Right to Participation and Self-Determination	251
10.5	Minority Rights and Internal Self-Determination	253
10.5.1	Internal Political Self-Determination	254
10.5.2	Internal Economic Self-Determination	255
10.5.3	Internal Social Self-Determination	257
10.5.4	Internal Cultural Self-Determination	258
	Conclusion	261
	References	264
11	Putting Together the Pieces	267
11.1	Framework	267
11.2	Tools and Preparations	269
11.3	Results: Internal Self-Determination and Minority Rights	270
11.4	The Right to Internal Self-Determination of Minorities in Larger Context	273
	Conclusion	276
	References	277

Part IV Conclusion

12 Conclusion	281
12.1 Traditional and Alternative International Law	281
12.2 The Right to Internal Self-Determination of Minorities	282
12.3 Implications	284
References	285
13 Summary	287
13.1 Framework	287
13.2 The Argument	288
13.3 The Right to Internal Self-Determination of Minorities	291
Annex I: Overview of Minority Rights Provisions in Minority Documents	293