

**MINORITY PROTECTIONS IN IRAQ:
IMPLEMENTING ARTICLE 125 OF
IRAQ'S CONSTITUTION**

Legal Memorandum

**Prepared by
The Institute for International Law and Human Rights**

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Executive Summary

States with diverse populations often utilize various statutory and constitutional frameworks to ensure minority representation at the local, municipal and national levels of government. At times, states with densely concentrated populations create legislative systems that ensure effective representation of the population. In a federal system, there is a national government, working with local governments with different responsibilities to the citizenry. In an asymmetrical federal system, local, provincial and regional governments have differing powers depending on the territory, with some jurisdictions having more autonomy and others having less.

Article 116 of Iraq's Constitution states that "the federal system in the Republic of Iraq is made up of a decentralized capital, regions and governorates, as well as local administrations." Articles 117 to 124 have provisions addressing regions, governorates, and the capital. Article 125, titled "The Local Administration," states "this Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities, such as Turkmens, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law."

Discussions and decisions about implementing Article 125 involve defining the powers, jurisdiction and competencies of sub-national units. This entails defining the degree of autonomy possessed by these sub-national units. The usage of the term "autonomy" in this memorandum is in its technical sense, meaning delineation of powers and authority within a federal system, and expressly rejects any suggestion of partitioning or dividing Iraq along ethnic and sectarian lines.

This memorandum discusses minority autonomy issues as a way to further implement Iraq's Constitution and comply with the legislative requirements for local administrations called for in Article 125 of the Constitution. This memorandum provides a brief survey of local autonomy regimes, with examples taken from around the world, in an effort to clarify issues and present options to Iraqi citizens.

Self-governance legislation grants special rights to smaller groups of minorities with the ability to work inside or outside of a larger federal system without carving out specific territorial and corresponding autonomous regions for a diverse group.

States seeking to include minorities or other groups in legislatures often establish mechanisms that allow minority groups to have representative self-governments.

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The most common way to accomplish this is through the creation of autonomous regions or smaller local governments to allow these groups to elect representation and maintain their religious, ethnic and cultural rights.

To fulfill its Constitutional obligations under Article 125 and ensure the representation of certain minority groups, Iraq may consider creating autonomous districts with some districts having a greater amount of legislative and financial autonomy than others. Districts and regions in some states, including **Spain** and **Italy**, elect delegates to elect the national President and have set-aside legislation that mandates a strict minimum of representatives per region in the national legislature. **Belgium** has a national government and a dual-layer of local governments that partition responsibilities between the maintenance and representation of cultural and local economic rights.

To ensure minority and ethnic communities have a voice, **Hungary** and **Croatia** passed legislation to form local minority governments that can work directly or indirectly with the local and national governments to ensure cultural and educational rights for all minority groups within the country.

States such as **Spain** have had problems with certain autonomous regions that have a greater desire for self-control. In its legislation, the Spanish Parliament has included provisions that limit the autonomy of any given region so that it remains within the federal structure.

The government of Iraq may wish to enact a statute that can provide for local administration to protect the rights of minorities at the sub-governorate and sub-regional level so as to further respect for human rights and fulfill the promise of Iraq's Constitution, particularly with respect to Article 125. This memorandum can serve as a useful guide to developing the specifics of such legislation. Institute for International Law and Human Rights staff are available to discuss any aspect of this memorandum, and can also provide more detailed responses to questions owing to the brevity of this document.

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Statement of Purpose

The purpose of this memorandum is to review constitutional and statutory systems and mechanisms designed to create administrative structures to promote minority community and territorial representation for all Iraqi citizens. **This memorandum discusses ethnic/religious autonomy issues as a way to further implement Iraq's Constitution and comply with the legislative requirements for local administration called for in Article 125 of the Constitution.** This memorandum provides a brief survey of local autonomy regimes, with examples taken from around the world, in an effort to clarify issues and present options to Iraqi citizens.

It is not the intent of this memorandum to discuss the allocation of constitutional power in Iraq between regions and the center. Rather, examples cited are for identifying potential autonomy options at the sub-governorate and sub-regional level through a statutory framework.

Introduction

States with diverse populations often utilize various statutory and constitutional frameworks to ensure minority representation at the local, provincial and national levels of government. Many states have utilized mixed methods of federalism by creating asymmetrical structures with autonomous regions, delegating cultural responsibilities to lower levels of government within a federal structure and creating authorities and responsibilities on a local and other levels. Several states have implemented these measures to adequately protect minorities in the legislative process and assist minority groups with maintaining their culture.

Best Practices in Other Federal States

While the focus of this memorandum is to outline options that can empower minorities through local administrations, as called for in Article 125, it is important to understand best practices that provide minority rights beyond local administrations.

In a mixed federal system, there are local governments with different amounts of power depending on the territory, with some governments having more autonomy and others having less. This is the case in **Italy**, where certain regions, such as Sicily, have greater control of their territories.¹ Another example is

¹ Italian Constitution, Section 2, Article 116.

Indonesia, where the national government devised a statutory framework that devolved a large amount of autonomy to the Aceh region, which is only one of many provinces in Indonesia.² Usually a national government designs an asymmetric system that designates greater power to certain territories for regions that have a rich culture and history with a dominant linguistic, ethnic, religious or racial group, while maintaining the territory within the greater federal system.

Constitutional and Statutory Frameworks

States have arranged federal systems through various constitutional and statutory frameworks. Certain states, such as **Italy** and **Spain**, have devised a federal system by placing specific provisions on allocation of power and responsibilities between the national and local governments through their constitutions. For example, **Spain** devised a constitutional framework with basic necessary provisions for a Self-governing Community. For instance, each Self-governing Community must present its own Statute of Autonomy that is the basic institutional rule of the Community and contains at least the name of the Community, its territorial boundaries, the name, organization and seat of its autonomous institutions, and its powers within the framework of the Constitution.³ Constitutional provisions, such as those found in **Italy's** Constitution, can be used as a blueprint for statutory provisions within a different country and other countries have created autonomy regions through statutory law.⁴ For example, the **Indonesian** national government created provisions that delineated the Aceh region, devised a framework for the authority of the Aceh District and Municipality governments, created customary institutions and gave the Aceh Government significantly greater responsibilities through a statute.⁵

Generally, these regions give greater amounts of economic, security, educational and cultural responsibilities to their populaces. Their national governments devolve power through statutory or constitutional law. They also provide financial resources to local governments to implement various social programs. For example, **Spain** created Self-governing Communities that assume a voluminous level of authority over transportation, public works, agricultural and

² Law of the Republic of Indonesia Number 11 of 2006 on The Governing of Aceh with Explanatory Notes.

³ Spanish Constitution, Chapter 3, Article 147, Clauses 1 & 2. *See Appendix A.*

⁴ *See Appendix A.*

⁵ Law of the Republic of Indonesia Number 11 of 2006 on The Governing of Aceh with Explanatory Notes.

aqua-cultural industries, local security forces, as well as the promotion of culture.⁶ In addition, the Spanish national government gave the Self-governing Communities the ability to gain greater responsibilities after 5 years of their creation.⁷ Another example is **Indonesia** where the national government devolved all power to the Aceh region except for foreign policy, defense, security, administration of justice, national monetary and fiscal policy and religion.⁸

Within several states, such as **Italy**, the localities control various aspects of governance and represent their territory within the national government. In Italy, the minority councils within the regions elect delegates that elect the President while national senators are elected on a regional basis.⁹ Regions may elect a pre-selected number of senators based on the population size of the region. Nevertheless, each region receives at least seven senators.¹⁰ This system ensures that both the executive and legislative branches of government will represent the larger groups of minorities in these territories.

The Need to Limit Autonomous Arrangements

Generally, states with autonomous regions will include provisions within the framework to control the amount of autonomy that a region can gain.

⁶ Spanish Constitution, Chapter 3, Article 148, Clause 1. “The Self-governing Communities may assume competences over: organization over their institutions of government; changes in municipal boundaries; town and country planning and housing; public works of interest to the Self-governing Community; railways and roads whose routes lie exclusively within the territory of the Self-government; regulating ports of haven, recreational ports and airports which are not engaged in commercial activities; agriculture and livestock raising; woodlands and forestry; management of environmental protection; planning, construction and exploitation of hydraulic projects, canals and irrigation; mineral and thermal waters; inland water fishing, the shellfish industry, fish farming; hunting and river fishing; local fairs; promotion of economic development of the Self-government Community within the objectives of the national economic policy; handicrafts; museums, libraries and music conservatories; monuments of interest; the promotion of culture and research and where applicable teaching the Self-governing Community’s language; promotion of tourism; promotion of sports and leisure; social assistance; health and hygiene; supervision and protection of buildings and installations; coordinating with local police forces in terms to be laid under an organic act.

⁷ Spanish Constitution, Chapter 3, Article 147, Clause 2. “After 5 years, the Self-governing Communities may, by amendment to their Statutes of Autonomy, progressively enlarge their powers within the framework under Article 149.”

⁸ The Aceh Government is responsible for all planning, utilization and supervision of zoning; planning and control of development and construction; maintenance of public order; provision of public facilities and infrastructure; public health; education and human resource services; handling inter-district and municipality social problems; inter-district and municipality services for employment and labor; development of cooperatives; environmental management; land services; population and civil registry services; general government administration; and provision of any other basic services.

⁹ Italian Constitution, Section I, Article 57 & 83.

¹⁰ Italian Constitution, Section I, Article 83.

Oftentimes, states will utilize tools to limit a government's autonomy at the provincial or district level such as assessing the statutes of the autonomous region before they can become official or granting regions a large portion of their budget. For instance, in **Spain**, the region must confer with the national government before gaining additional powers and the financial means to implement social programs.¹¹

The smaller or more scattered minority groups that Article 125 envisions supporting make the statutory frameworks used in **Hungary** and **Croatia** very applicable examples for Iraq. These two nations allow for minority self-governments to be formed out of district and sub-district levels of government, and is discussed in more detail elsewhere in this memorandum.

Multi-Ethnic Autonomy in a Federal System

Belgium is an example of a state with a federal structure that grants territorial autonomy and cultural autonomy at different levels of government. The Belgian system consists of a dual-layered government with a national government, language communities and local regions. The Communities represent the main linguistic minorities within Belgium and govern all linguistic and cultural affairs within their specific regions and all other speakers in the country.¹² For example, the French Community governs all cultural affairs for the physical Community and French speakers in other portions of Belgium. The Regions are also physical territories that overlap the territories of the Communities. However, the Regions are given authority over separate matters unrelated to the cultural and linguistic matters of the Communities.¹³

The Communities, Regions and national House of Representatives each contain a representative body that creates legislation on their respective issues.¹⁴ Since Belgian citizens are members of at least one Community, one Region and are citizens underneath the national government, each person has the ability to vote

¹¹ Spanish Constitution, Chapter 3, Article 150.

¹² Belgian Constitution, Articles 127. "Parliaments of the Flemish and French Communities, each one in so far as it is concerned, regulate by federate law: (1) cultural matters; (2) education with the exception of the end of compulsory education; (b) minimum standards for granting of diplomas; (c) the pension scheme (3) cooperation between the Communities, as well as international cooperation, including the concluding of treaties for those matters referred to in (1) and (2).

¹³ Regions have authority over matters related to the local economy, employment, agriculture, water policy, housing, public works, energy, transport, the environment, town and country planning, nature conservation, credit, foreign trade, supervision of the provinces, communes and inter-communal utility companies.

¹⁴ Belgian Constitution, Articles 61 & 116.

for members of each parliament and the House of Representatives. Further, there is a strong linguistic minority representation on a national level since the Community legislation becomes federal law. Thus, each of the linguistic groups can maintain a strong cultural independence.

The Creation of Local Minority Governments

Croatia and **Hungary** contain more scattered minority groups that are collected within any one territorial region and created a self-government framework that provides minority representation at the city, municipal or national level. For instance, **Hungary** gives minorities the right to create their own communities and establish local self-governments at the local and national level.¹⁵ These governments have the ability to set aside property for the minority governing entity; maintain a budget; protect historical monuments; define its authority regarding organizational structure; name or insignia and local feasts; and maintain local basic education, printed and electronic media, and adult education and socio-cultural animation.¹⁶ In addition, the minority self-governments have the right to approach appropriate public bodies and request information, make a proposal, initiate measures and reject any proposal regarding that minority group.¹⁷

Similarly, in **Croatia**, minorities are guaranteed representation at the local and national levels of administrative, judicial bodies and legislative bodies if the population represented at least 1.5% of the general Croatian population.¹⁸ Furthermore, minority groups have the right to create units of self-government where national minorities make up at least 15% of the total population of that local territory and there are 200 members. Minorities are also allowed to elect members of the National Minorities Council when there are 500 members of an individual national minority. In Croatia, the National Minorities Councils have a large amount of influence over self-governments and administrative offices.¹⁹ Therefore, statutory frameworks are available that allow for smaller minority groups to be adequately represented at the local and national government level.

¹⁵ Hungarian Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, Article 5, Clause 1.

¹⁶ Hungarian Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, Article 27.

¹⁷ Hungarian Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, Article 26.

¹⁸ The Constitutional Act on the Rights of National Minorities in the Republic of Croatia, Article 19.

¹⁹ National Minorities Councils have the ability to propose measures to self-governments, nominate candidates for administrative offices or self-governments, to be informed about all issues before self-governments, and give opinions to radio and television stations on the local and regional level aimed at national minorities.

Conclusion

Several states have implemented measures to adequately protect minorities in the legislative process and assist minority groups with maintaining their culture. States with diverse populations often utilize various statutory and constitutional frameworks to ensure minority representation at the local, municipal and national levels of government. These safeguards can provide more harmonious relations between Iraq's minority groups, the government and the population as a whole.

RECOMMENDATIONS

The government of Iraq may wish to implement some or all of the following recommendations:

Legislative Structure

1. Adopt and implement a statutory framework, consistent with Article 125, which devolves greater power to the governorates from the national government while districts within the governorate receive additional powers from the governorate. These powers may include organization of institutions within the jurisdiction, promotion of culture and education, or creating local police forces.
2. Amend the Provincial Powers Law as appropriate to protect minority groups as called for in Article 125
3. Create legislation that will limit regions and governorates from gaining complete self-autonomy
4. Establish a legislative framework that will allow governorates to gain greater control of public policies within their territory after five years from when decentralization first occurred with the consent of the Iraqi Parliament
5. Adopt and implement legislation that will allow smaller minority groups to adopt minority local governments at the district level where a minority group is at least ten percent of the population within the district
6. Create a “National Minorities Council” that would provide a national forum for local administrations established by Article 125 legislation.
7. Create Local Administrative Units independent of the national government, regions, governorates, or districts, with unique boundaries and authorities.

Funding and Administration

1. Adopt and implement legislation that will allow the Iraqi Parliament to fund the governorates and districts for the cost of transferred services
2. Districts implementing Article 125 provisions should establish an administrative system from the district governments and provincial councils to the national government that will report an estimated and actual budget for each fiscal year
3. Districts implementing Article 125 provisions should establish an administrative system from the district governments and provincial

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councils to the national government that will report the direct utilization of funds for projects and future projects for each fiscal year

Possible Powers and Authorities

Adopt and implement legislation that will grant all governorates, districts, or local administrations specific and limited religious, linguistic, educational and cultural control over their territories; including and not limited to:

- a. Organization of legislative institutions at the district level within the governorate
- b. Education
- c. Social services
- d. Promotion of economic development within the goals of the national government
- e. Control over language in schools and the district
- f. Usage of language and script in official use
- g. Usage of insignia and symbols
- h. Cultural autonomy
- i. Local policing
- j. Ability to set aside property
- k. Maintenance of a budget for the governing entity
- l. Protection of historical monuments
- m. Definition of its authority regarding organizational structure
- n. Supporting printed and electronic media
- o. Provision of adult education
- p. Right to engage appropriate public bodies and request information, make proposals, initiate measures and reject any proposal regarding that minority group
- q. Allow for changes in boundaries within the minority local administration
- r. National government, region, or governorate may transfer or delegate to minority local administration through appropriate legislation some of its powers and provide appropriate financial means for exercising the delegated authority
- s. Combine with other minority local administrations, districts, and sub-districts.

APPENDIX A

KEY ELEMENTS OF SAMPLE LANGUAGE BASED ON ARTICLE 125

This appendix contains sample language that can be utilized as part of consideration of potential legislation that could grant more autonomy to governing entities at the sub-governorate level. These sample provisions can be used within a statute to implement Article 125 of the Iraqi Constitution, and are largely drawn from the Spanish Constitution.

SPAIN

CHAPTER 3: SELF-GOVERNING COMMUNITIES

Section 143

- (1) In the exercise of the right to self-government recognized in section 2 of the Constitution, bordering provinces with common historic, cultural and economic characteristics, insular territories and provinces with a historic regional status may accede to self-government and form Self-governing Communities in conformity with the provisions contained in this Part and in the respective Statutes.
- (2) The right to initiate the process towards self-government lies with all the Provincial Councils concerned or with the corresponding inter-island body and with two thirds of the municipalities whose population represents at least the majority of the electorate of each province or island. These requirements must be met within six months from the initial agreement reached to this aim by any of the local Corporations concerned.
- (3) If this initiative is not successful, it may be repeated only after five years have elapsed.

Section 144

The Cortes Generales [Spanish Parliament] may, in the national interest, and by an organic act:

- a) Authorize the setting-up of a Self-governing Community, where its territory does not exceed that of a province and does not possess the characteristics outlined in section 143, paragraph 1.
- b) Authorize or grant, as the case may be, a Statute of Autonomy to territories which are not integrated into the provincial organization.

- c) Take over the initiative of the local Corporations referred to in section 143, paragraph 2.

Section 145

- (1) Under no circumstances shall a federation of Self-governing Communities be allowed.
- (2) Statutes of Autonomy may provide for the circumstances, requirements and terms under which Self-governing Communities may reach agreements among themselves for the management and rendering of services in matters pertaining to them, as well as the nature and effects of the corresponding notification to be sent to the Cortes Generales. In all other cases, cooperation agreements among Self-governing Communities shall require authorization by the Cortes Generales.
(Senate Standing Orders, sections 56 c) and d), and 137-139)

Section 146

The draft Statute of Autonomy shall be drawn up by an assembly consisting of members of the Provincial Council or inter-island body of the provinces concerned, and the respective Members of Congress and Senators elected in them, and shall be sent to the Cortes Generales for its drafting as Act.
(Senate Standing Orders, section 143)

Section 147

- (1) Within the terms of the present Constitution, Statutes of Autonomy shall be the basic institutional rule of each Self-governing Community and the States shall recognize and protect them as an integral part of its legal system.
- (2) The Statutes of Autonomy must contain:
 - a) The name of the Community which best corresponds to its historic identity.
 - b) Its territorial boundaries.
 - c) The name, organization and seat of its own autonomous institutions.
 - d) The powers assumed within the framework laid down by the Constitution and the basic rules for the transfer of the corresponding services.

- (3) Amendment of Statutes of Autonomy shall conform to the procedure established therein and shall in any case require approval of the Cortes Generales through an organic act.
(*Senate Standing Orders, section 143*)

Section 148

- (1) The Self-governing Communities may assume competence over the following matters:
- i) Organization of their institutions of self-government.
 - ii) Changes in municipal boundaries within their territory and, in general, functions appertaining to the State Administration regarding local Corporations, whose transfer may be authorized by legislation on local government.
 - iii) Town and country planning and housing.
 - iv) Public works of interest to the Self-governing Community, within its own territory.
 - v) Railways and roads whose routes lie exclusively within the territory of the Self-governing Community and transport by the above means or by cable fulfilling the same conditions.
 - vi) Ports of haven, recreational ports and airports and, in general, those which are not engaged in commercial activities.
 - vii) Agriculture and livestock raising, in accordance with general economic planning.
 - viii) Woodlands and forestry.
 - ix) Management of environmental protection.
 - x) Planning, construction and exploitation of hydraulic projects, canals and irrigation of interest to the Self-governing Community; mineral and thermal waters.
 - xi) Inland water fishing, shellfish industry and fishfarming, hunting and river fishing.
 - xii) Local fairs.
 - xiii) Promotion of economic development of the Self-governing Community within the objectives set by national economic policy.
 - xiv) Handicrafts.
 - xv) Museums, libraries and music conservatories of interest to the Self-governing Community.
 - xvi) The Self-governing Community's monuments of interest.
 - xvii) The promotion of culture and research and, where applicable, the teaching of the Self-governing Community's language.

- xviii) The promotion and planning of tourism within its territorial area.
The promotion of sports and the proper use of leisure.
 - xix) Social assistance.
 - xx) Health and hygiene.
 - xxi) The supervision and protection of its buildings and installations.
Coordination and other powers relating to local police forces under the terms to be laid down by an organic act.
- (2) After five years, the Self-governing Communities may, by amendment of their Statutes of Autonomy, progressively enlarge their powers within the framework laid down in section 149.

Section 149

- (1) The State shall have exclusive competence over the following matters:
- i) Regulation of basic conditions guaranteeing the equality of all Spaniards in the exercise of their rights and in the fulfillment of their constitutional duties.
 - ii) Nationality, immigration, emigration, status of aliens, and right of asylum.
 - iii) International relations.
 - iv) Defense and the Armed Forces.
 - v) Administration of Justice.
 - vi) Commercial, criminal and penitentiary legislation; procedural legislation, with prejudice to the necessary specialties in these fields arising from the peculiar features of the substantive law of the Self-governing Communities.
 - vii) Labor legislation, without prejudice to its execution by bodies of the Self-governing Communities.
 - viii) Civil legislation, without prejudice to the preservation, modification and development by the Self-governing Communities of their civil law, foral or special, whenever these exist, and tradition charts. In any event rules for the application and effectiveness of legal provisions, civil relations arising from the forms of marriage, keeping of records and drawing up to public instruments, bases of contractual liability, rules for resolving conflicts of law and determination of the sources of law in conformity, in this last case, with the rules of traditional charts or with those of foral or special laws.
 - ix) Legislation on copyright and industrial property.
 - x) Customs and tariff regulations; foreign trade.
 - xi) Monetary system; foreign currency, exchange and convertibility; bases for the regulations concerning credit, banking and insurance.

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- xii) Legislation on weights and measures and determination of the official time.
- xiii) Basic rules and coordination of general economic planning.
- xiv) General financial affairs and State Debt.
- xv) Promotion and general coordination of scientific and technical research.
- xvi) External health measures; basic conditions and general coordination of health matters; legislation on pharmaceutical products.
- xvii) Basic legislation and financial system of Social Security, without prejudice to implementation of its services by the Self-governing Communities.
- xviii) Basic rules of the legal system of Public Administrations and the status of their officials which shall, in any case, guarantee that all under said administrations will receive equal treatment; the common administrative procedure, without prejudice to the special features of Self-governing Communities own organizations; legislation on compulsory expropriation; basic legislation on contracts and administrative concessions and the system of liability of all Public Administrations.
- xix) Sea fishing, without prejudice to the powers which, in regulations governing this sector, may be vested to the Self-governing Communities.
- xx) Merchant navy and registering of ships; lighting of coasts and signals at sea; general-interest ports; general-interest airports; control of the air space, air traffic and transport; meteorological services and aircraft registration.
- xxi) Railways and land transport crossing through the territory of more than one Self-governing Community; general system of communications; motor vehicle traffic; Post Office services and telecommunications; air and underwater cables and radio communications.
- xxii) Legislation, regulation and concession of hydraulic resources and development where the water-streams flow through more than one Self-governing Community, and authorization for hydro-electrical power plants whenever their operation affects other Communities or the lines of energy transportation are extended over other Communities.
- xxiii) Basic legislation on environmental protection, without prejudice to powers of the Self-governing Communities to take additional protective measures; basic legislation on woodlands, forestry and cattle trails.

- xxiv) Public words of general benefit or whose execution affects more than one Self-governing Community.
 - xxv) Basic regulation of mining and energy.
 - xxvi) Manufacturing, sale, possession and use of arms and explosives.
 - xxvii) Basic rules relating to organization of the press, radio and television and, in general, all mass-communications media without prejudice to powers vested in the Self-governing Communities for their development and implementation.
 - xxviii) Protection of Spain's cultural and artistic heritage and national monuments against exportation and spoliation; museums, libraries and archives belonging to the State, without prejudice to their management by the Self-governing Communities.
 - xxix) Public safety, without prejudice to the possibility of creation of police forces by the Self-governing Communities, in the manner to be provided for in their respective Statutes of Autonomy and within the framework to be laid down by an organic act.
 - xxx) Regulation of the requirements of obtention, issue and standardization of academic degrees and professional qualifications and basic rules for implementation of section 27 of the Constitution, in order to guarantee the fulfillment of the duties of public authorities in this matter.
 - xxxi) Statistics for State purposes.
 - xxxii) Authorization of popular consultations through the holding of referendums.
- (2) Without prejudice to the competences that may be assumed by the Self-governing Communities, the State shall consider the promotion of culture a duty and an essential function and shall facilitate cultural communication among the Self-governing Communities, in cooperation with them.
- (3) Matters not expressly assigned to the State by this Constitution may fall under the jurisdiction of the Self-governing Communities by virtue of their Statutes of Autonomy. Jurisdiction on matters not claimed by Statutes of Autonomy shall fall with the State, whose laws shall prevail, in case of conflict, over those of the Self-governing Communities regarding all matters in which exclusive jurisdiction has not been conferred upon the latter. State law shall in any case be suppletory of that of the Self-governing Communities.

Section 150

- (1) The Cortes Generales, in matters of State jurisdiction, may confer upon all or any of the Self-governing Communities the power to pass legislation for themselves within the framework of the principles, bases and guidelines laid down by a State act. Without prejudice to the jurisdiction of the Courts, each enabling act shall make provision for the method of supervision of the Cortes Generales over the Communities' legislation.
(Senate Standing Orders, section 56 j)
- (2) The State may transfer or delegate to the Self-governing Communities through an organic act, some of its powers which by their nature can be transferred or delegated. The law shall, in each case, provide for the appropriate transfer of financial means, as well as specify the forms of control to be retained by the State.
(Senate Standing Orders, section 56 k)
- (3) The State may enact laws laying down the necessary principles for harmonizing the rule-making provisions of the Self-governing Communities, even in the case of matters over which jurisdiction has been vested to the latter, where this is necessary in the general interest. It is incumbent upon the Cortes Generales, by overall majority of the members of each House, to evaluate this necessity.
(Senate Standing Orders, sections 56 l), 141 and 142)

Section 151

- (1) It shall not be necessary to wait for the five-year period referred to in section 148, subsection 2, to elapse when the initiative for the autonomy process agreed upon within the time limit specified in section 143, subsection 2, not only by the corresponding Provincial Councils or inter-island bodies but also by three-quarters of the municipalities of each province concerned, representing at least the majority of the electorate of each one, and said initiative is ratified in a referendum by the overall majority of electors in each province, under the terms to be laid down by an organic act.
- (2) In the case referred to in the foregoing paragraph, procedure for drafting the Statute of Autonomy shall be as follows:
 - i) The Government shall convene all Members of Congress and Senators elected in the constituencies of the territory seeking self-government, in order that they may set themselves up as an Assembly for the sole purpose of drawing up a Statute of Autonomy, to be adopted by the overall majority of its members.
 - ii) Once the draft Statute has been passed by the Parliamentarians' Assembly, it is to be sent to the Constitutional Committee of the

Congress which shall examine it within two months with the cooperation and assistance of a delegation from the Assembly which has proposed it, in order to decide by common agreement upon its final form.

- iii) If such agreement is reached, the resulting text shall be submitted in a referendum to the electorate in the provinces within the territory to be covered by the proposed Statute.
 - iv) If the draft Statute is approved in each province by the majority of validly cast votes, it shall be referred to the Cortes Generales. Each House, in plenary sitting, shall decide upon the text by means of a vote of ratification. Once the Statute has been passed, the King shall give his assent and promulgate it as an act.
(Senate Standing Orders, section 143.2)
 - v) If the agreement referred to in paragraph ii) of this subsection is not reached, the legislative process for the draft Statute in the Cortes Generales shall be the same as that for a bill. The text passed by the latter shall be submitted to a referendum of the electorate of the provinces within the territory to be covered by the draft Statute. In the event that it is approved by the majority of validly cast votes in each province, it shall be promulgated as provided in the foregoing paragraph.
- (3) In the case described in paragraphs iv) and v) of the foregoing subsection, failure by one or several of the provinces to ratify the draft Statute shall not prevent constitution of the remaining provinces into a Self-governing Community in the manner to be provided for by the organic act contemplated in subsection 1 of this section.

Section 152

- (1) In the case of Statutes passed by means of the procedure referred to in the foregoing section, the institutional self-governing organization shall be based on a Legislative Assembly elected by universal suffrage under a system of proportional representation which shall also assure the representation of the various areas of the territory; an Executive Council with executive and administrative functions and a President elected by the Assembly among its members and appointed by the King. The President shall assume leadership of the Executive Council, the supreme representation of the Community and the State's ordinary representation in the latter. The President and the members of the Executive Council shall be politically accountable to the Assembly.

A High Court of Justice, without prejudice to the jurisdiction of the Supreme Court, shall be the head of Judicial Power in the territory of the Self-governing Community. The Statutes of Autonomy may make provision for the circumstances and the manner in which the Community is to take part in the setting-up of the judicial districts of the territory. Provided that they must conform to the provisions of the Organic Act on the Judicial Power and to the principles of unity and independence of the judicial power. Without prejudice to the provisions of section 123, successive proceedings, if any, shall be held before judicial bodies located in the same territory of the Self-governing Community in which the Court having jurisdiction in the first instance is located.

- (2) Once the Statutes have been received the Royal Assent and been promulgated, they may be amended only by the procedure provided for therein and a referendum of registered electors in the Self-governing Community.
- (3) By grouping bordering municipalities together, the Statutes may set up their own territorial constituencies which shall enjoy full legal personality.