

International Human Rights Protections for Minority Groups: Legal Frameworks and Contemporary Challenges

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Abstract:

The issue of minority groups, particularly Muslims, has long been a significant topic, both historically and in its contemporary manifestations, as it evolves alongside social, economic, and cultural changes. This issue has garnered increased attention due to the rise in ethnic, racial, and religious tensions, prompting its consideration within the framework of international human rights protection. Consequently, various international agreements have been adopted, focusing on the rights of these communities and establishing mechanisms for safeguarding those rights. In this research paper, I aim to examine the most fundamental rights guaranteed to minority groups under international human rights law, specifically through the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

Keywords: Minorities; International agreements; Human rights; International law; Muslim minorities.

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1. INTRODUCTION

Communities across the world have exhibited significant diversity, shaped by distinct cultures, affiliations, religions, and other factors that set them apart from one another. This diversity has attracted the attention of numerous researchers across various disciplines, inspiring a wide array of studies and investigations. One of the key characteristics that distinguishes certain societies is their geographical distribution and areas of residence, as well as the number of their members. The latter, in particular, sets certain groups apart, as their populations are noticeably smaller in comparison to others, even within the same nation. These groups are commonly referred to as minorities.

The topic of Muslim minorities in various countries is one of the most significant and frequently discussed issues, as it represents a central point in the broader struggle for the right of people to live with dignity, openly practice their beliefs, and celebrate their ethnic or cultural heritage without fear. The subject of human rights, deeply tied to the preservation of human dignity, has been a matter of critical importance throughout history. As humanity has progressed, there have been key historical moments marked by profound transformations that shaped the path of people toward development. These transformations, though varied in time, place, and nature, have led to the establishment of international human rights law, which seeks to uphold the principles of cultural diversity, coexistence, and the prevention of discrimination. International legal frameworks, through various legal provisions, protect minority rights, including the right to religion, language, and the preservation of cultural diversity, ensuring that individuals can maintain and take pride in their unique identities.

Accordingly, the research problem is formulated as follows: How does international human rights law impact the protection of Muslim minorities? This question will be addressed by exploring the following key areas:

1. The concept of minorities
2. Internationally recognized human rights for minorities
3. International developments in the protection of Muslim minorities.

Significance of the study:

Muslim minorities have historically not received adequate attention, as there is no specific protection system dedicated solely to their rights, unlike general human rights protections. Despite the distinct nature of this group, the lack of a tailored framework has prompted the international community to adopt agreements aimed at safeguarding their rights. Various mechanisms have been established to shield Muslim minorities from the violations they face. However, issues concerning the protection of minorities persist, and challenges remain, particularly for Muslim minorities living in non-Muslim-majority countries. This study seeks to highlight the importance of understanding the rights of Muslim minorities as guaranteed by international agreements and treaties, while also addressing the ongoing violations faced by this group in many parts of the world, despite the existence of protections meant to uphold their rights.

Study objectives

This study aims to examine the specific protections afforded to Muslim minorities within international legislation and the corresponding legal frameworks established for their protection. Additionally, it seeks to assess the extent to which these protections are implemented in practice, highlighting any gaps between the legal guarantees and their application on the ground.

Methodology of the study:

The study employs a combination of methodologies. The historical methodology is utilized to trace the development of international legal frameworks designed to protect Muslim minorities. The descriptive methodology is applied to outline the current situation of Muslim minorities in various countries. Additionally, the case study methodology is employed to conduct in-depth analyses of specific contexts, focusing on the cases of China and Ethiopia.

2. Historical overview of Muslim minorities:

During the first decade of the twentieth century, the increase in immigration from Islamic countries to various parts of the world marked the emergence of the phenomenon of minorities at its initial level. This issue

became more pronounced with the establishment of modern states in many regions formerly under the control of the Ottoman Empire, as colonial powers redrew the political and geographical landscape of these areas. Consequently, the influence of Muslims in these regions waned, leading to their status as minorities in societies they had historically governed until relatively recent times.

Before the fall of the Ottoman Empire, Western countries strategically employed the tactic of promoting and defending minority groups as a means of destabilizing and ultimately dismantling the Islamic state. They provided various forms of support to these groups in preparation for their separation from the empire. This strategy involved inciting unrest in the Balkans and stirring up tensions among its diverse peoples and sects, which had previously enjoyed stability and protection under Islamic governance. As a result, Western powers were able to detach these territories from the Islamic State before its collapse.

Imperialism has consistently sought to implement its principle of "divide and rule" in underdeveloped societies by fostering animosities between minority and majority populations. This approach involves heightening the fears and aspirations of minorities, thereby exacerbating divisions and fueling discrimination. Such tactics aim to undermine loyalty and national identity, fragmenting society and weakening its cohesion. Ultimately, this created conditions conducive to conflict, which served as a pretext for foreign intervention, the extension of influence, and the consolidation of control.

Today, as a result of human progress and increased migration driven by the search for work and knowledge, alongside the political conditions faced by developing countries—particularly those with Muslim populations—the number of Muslim minorities has risen significantly. Unfortunately, this growth has been accompanied by heightened persecution and marginalization of their rights, despite the advocacy efforts of human rights activists aimed at protecting these communities.

The origins of Muslim minorities or communities can generally be traced through one of the following pathways:

Embracing Islam: Muslim minorities can emerge in any region

where individuals within a population choose to convert to Islam.

Occupation of Muslim Lands: When a non-Islamic state occupies traditionally Muslim territories, the occupying power may employ various strategies to expel indigenous inhabitants or to compel Muslims to integrate with the local population. This has occurred in regions such as Eastern Europe, India, and Palestine.

Migration of Muslims: Many Muslims have migrated to non-Muslim countries—such as those in Europe, America, and Australia—due to political, economic, or social factors¹.

3. The concept of minority

The opposite of abundance is scarcity, as highlighted in the words of God Almighty: "... wa-zhkurū idh kuntum qalīlan fakaththarakum ..." "... and remember when you were few, I (God) multiplied you..."².

In light of the preceding discussion, it is essential to clarify several important elements related to the concept of minority as we address this term in our study:

3.1 Formation of Minority Groups: The crystallization of a minority group arises from various factors, including birth, race, religion, and other elements beyond individual control. Members of a minority group inherit its characteristics and identity, making it fundamentally a cultural issue. Typically, members share one or more distinguishing components, such as religion, language, or race, which differentiate them from other groups.

3.2 Numerical Significance:

While the numerical aspect of the term "minority" serves as a crucial indicator for delineating it from the majority, this distinction is not absolute. A minority should not be analyzed solely from a quantitative perspective; it is equally important to consider its social, cultural, and political weight within the state. A minority group should not merely be defined as a small segment distinguished by specific characteristics, but rather as a group that possesses a unique identity and plays a significant role in the societal fabric.

Moreover, the perspective on minorities should be based on a comparison with the majority at the national level rather than the regional level. A minority group may constitute a numerical majority in certain

regions of the state, yet it is still regarded as a minority; this situation can provide it with leverage in pursuing its objectives. The subjective variable is a crucial factor in defining a minority. A minority cannot be identified without its members recognizing their own distinctiveness and subjectivity. This awareness typically arises from the discriminatory treatment that members of the group experience from others. In the absence of such recognition, we encounter groups that coexist solely among themselves.

Some argue that the existence of a minority is inherently linked to some form of oppression or subjugation, which shapes the dynamics between the minority and the majority. This oppression can manifest as regional deprivation in economic and social aspects, often due to the state's desire to maintain the status quo. However, it is important to note that not all minorities are necessarily oppressed or lacking in power; many minorities exert control within their societies³.

The concept of minority has been explored in various studies and research from multiple perspectives. While each approach has its justification, there is a consensus that a minority refers to a smaller group within the political entity of a state, irrespective of its political significance within society. The Dictionary of Political Science defines a minority as "a group of people from a specific nation whose numbers are fewer than the rest of the population, possessing their own culture, language, and religion, and advocating for the preservation of their identity and culture based on a particular system." In his book, *Muslim Minorities and the Change of Fatwa*, Salem bin Abdul Salam Al-Shaikhi characterizes a minority as "a Muslim group residing among a non-Muslim majority that strives to maintain its religious identity according to a specific political agenda."⁴

Abd El Wahab Al-Kayali defines a minority as "any human group within a country that is distinguished from the majority of its population by religion, sect, race, or language—fundamental criteria that differentiate human groups from one another." In 1991, the United Nations published a study by Special Rapporteur Francesco Capotorti, which traced the evolution of the concept of minority since 1930. This study referenced an advisory opinion from the International Court of Justice, stating: "A group (minority) is defined as a collection of individuals living in a country or

region who share a particular origin, religion, language, or customs. They are united by an identity based on one or more of these characteristics and, in their solidarity, work to preserve their traditions, adhere to their religious practices, and ensure the education and upbringing of their children per these traditions, providing mutual assistance to one another."⁵

A minority can also be defined based on several criteria:

3.3 Numerical Representation:

A minority group must consist of fewer individuals than the majority population. The size of the minority is significant in highlighting its characteristics. However, the numerical criterion has faced considerable criticism, particularly in contexts where no single group constitutes a majority, as exemplified by Lebanese society.

II. Non-Dominance: To warrant protection, the minority must occupy a non-dominant position within society.

III. Sense of Distinction: A minority differs from the majority in aspects such as language, ethnicity, religion, nationality, or culture, fostering a sense of identity that sets it apart.

IV. Variables of Difference: Minorities may vary from the majority in one or more of the following areas:

- A. Religion
- B. Language
- C. Culture
- D. Ethnicity

V. Demand for Distinct Rights: A group is recognized as a minority when it actively seeks certain rights as a distinct entity, separate from the majority population⁶.

A comprehensive understanding of minorities can be drawn from the 1993 Vienna Declaration on the Protection of National Minorities in European Countries. The declaration states: "National minorities are groups that have become minorities within the borders of a state as a result of historical events that occurred against their will. The relationship between such a minority and the state is a permanent one, and its members are citizens of that state." In this context, Muslim minorities can be defined as

a group of individuals—regardless of their numerical size—who practice Islam and reside among a population that adheres to a different religion and holds political power within the state.

3.4 Muslim minorities:

In this regard, Professor William Suleiman Qalladah wrote: We do not here consider the demographic importance of specific minorities as much as we take into consideration their economic, political, and social weight.

Nevin Abdel Moneim Masoud argues that relying on numerical criteria can lead to misleading conclusions about minority and majority status. She states, “I was keen from the beginning to clarify that the criterion of numbers would not deter me from studying the minority and the majority, because there is a certain danger in relying on it. This danger lies in its potential to conflict with the dynamics of political interactions between groups. I consider the group’s control of political power and associated economic benefits as justification for labeling it as the dominant group, while the exclusion and discrimination faced by another group politically, economically, and socially serve as justification for categorizing it as a minority. The criterion I used to distinguish between these two groups is the position of political power, which I view as an important contribution to this research rather than an objection. If we relied solely on the numerical criterion, we would erroneously categorize the Alawite group in Syria as a minority.” Consequently, Nevin Masoud defines a minority as a group that shares one or more cultural and natural characteristics and common interests, which are reflected in specific organizations and patterns of interaction. Furthermore, members of this group develop a consciousness of their distinct identity concerning others, largely as a result of the political, social, and economic discrimination they experience, which reinforces and enhances their sense of solidarity⁷.

4. Minorities in the International Bill of Human Rights:

Among the most prominent rights included in international covenants:

4.1 The right to religious freedom and freedom of belief:

This principle is reflected in Article 27 of the International Covenant on Civil and Political Rights, which states: “In those States where ethnic, religious, or linguistic minorities exist, persons belonging to such minorities

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shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess their religion, to practice their own rituals, or to use their own language.”⁸

As stated in Article (30) of the Convention on the Rights of the Child: “In those States in which ethnic, religious or linguistic minorities or persons of Indigenous origin exist, a child belonging to such a minority shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language”⁹.

Article 25 of the Arab Charter on Human Rights focuses on the rights of minorities, stating: “Minorities shall not be denied the right to enjoy their culture or practice the teachings of their religion”¹⁰.

4.2 International developments in the field of Muslim minorities :

The system for protecting minorities can be historically traced back to the collapse of multinational empires in the 19th and early 20th centuries, coinciding with the aspirations of liberated nationalities to establish their own states. This concept gained prominence on the international stage, particularly after World War I when international treaties were formulated following the establishment of newly independent states that contained numerous religious and national minorities. These treaties included explicit provisions for the protection of minorities, along with special guarantees that states committed to uphold under the supervision of the League of Nations. Notably, a specific agreement regarding minorities was drafted during the Peace Conference at the Palace of Versailles in 1919. The League of Nations' institutions, such as the League Council, the General Secretariat, and the Permanent Court of International Justice, played a crucial role in creating a framework for minority protection. Under this framework, individuals and minority groups were recognized as distinct entities with the right to file complaints regarding violations perpetrated by states.

During the San Francisco Conference of 1945, the drafters of the United Nations Charter did not include any articles explicitly addressing the rights of minorities. However, subsequent international agreements sought

to emphasize the issue of minorities. For instance, Article 2 of the Universal Declaration of Human Rights, adopted in 1948, underscores the importance of human freedom and belief, guaranteeing these rights to all individuals without discrimination¹¹.

4.3 The right to equality and protection from racial discrimination:

Article 2 of the International Covenant on Civil and Political Rights asserts: "Each State Party to the present Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, religion, political opinion, national or social origin, birth, or other status."

Similarly, Article 3 of the Arab Charter on Human Rights states: "Each State Party to this Charter undertakes to guarantee to every person subject to its jurisdiction the right to enjoy the rights and freedoms outlined in this Charter, and to take the necessary measures to ensure effective equality in the enjoyment of all rights and freedoms stipulated in this Charter, in a manner that guarantees protection from all forms of discrimination for any reason..."¹².

4.4 Right to participate in public life:

The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities, adopted in 1992, emphasizes the right of individuals belonging to minorities to participate effectively in economic and public life. It further asserts that ensuring the inclusion of minority groups is essential for recognizing them as "an integral part of the development of society as a whole." Additionally, the United Nations Forum on Minority Issues has made several recommendations aimed at facilitating the effective participation of minorities in all aspects of economic and social life, while also enhancing respect for and protection of their rights.

4.5 The right of the minority to secede:

Ethnic minorities frequently establish Muslim movements advocating for secession, with the secession of Eritrea from Ethiopia serving as a notable example. However, Muslim minorities typically seek only the freedom to practice their rituals internally, emphasizing the right to

worship. This desire stems from ongoing violations and attempts to erase their identity. Examples of such challenges can be observed among Muslim minorities in regions such as the Philippines, the Hutu area, and Pattani in Thailand, as well as in India and China¹³.

The right to freedom of thought and religion encompasses the freedom to change one's religion or belief. It also includes the liberty to manifest one's religion or belief, either individually or in community with others, and in public. This manifestation can take place through worship, observance, practice, and teaching.

4.6 The right to practice religious rituals:

Article 18 of the Universal Declaration of Human Rights (1948) affirms the right of every individual to adopt a particular religion or belief or to choose not to embrace any religion at all. Articles 18 and 19 of the International Covenant on Civil and Political Rights (1966), along with Articles 45, 07, and 08 of the International Convention on the Elimination of All Forms of Racial Discrimination, further underscore the freedom of individuals to embrace the religion they consider to be true. This international framework guarantees that everyone, irrespective of their affiliations whether in the minority or the majority has the freedom to practice their religious rituals without facing any restrictions or pressure from the governing authorities¹⁴.

4.7 The right to self-determination:

The right to self-determination is recognized as the foremost right outlined in the International Covenant on Civil and Political Rights. Article 27 specifically addresses the rights of minorities, encompassing the following provisions:

- 1) The right of minorities to enjoy their own culture.
- 2) The right of minorities to profess and practice their religion.
- 3) The right of minorities to use their language.

However, the principle of self-determination often leads these groups to seek secession from their mother country, which can have implications for the sovereignty of the state. Self-determination refers to the right of any people to govern themselves without external interference across various

domains. For Muslim minorities, this principle translates into a demand for internal self-determination, allowing them to determine their own destiny through mechanisms such as self-rule or federalism, while also exercising their rights freely.

5. Rights that must be protected for Muslim minorities :

5.1 Right to exist:

This right affirms the minority's entitlement to exist as a distinct ethnic group, separate from other individuals or groups within society, and prohibits any actions that could lead to its partial or total elimination. The foundation of this right is articulated in the Convention on the Prevention and Punishment of the Crime of Genocide (1948), which criminalizes the extermination of human groups and mandates the punishment of those who commit such crimes.

Subsequent international agreements have reinforced this right and its protection as an inherent entitlement and a fundamental condition for the enjoyment of all other economic, social, and cultural rights, as well as civil and political rights. Consequently, the right to persist as a cohesive group within society is emphasized, alongside the imperative to prevent any actions aimed at its eradication¹⁵.

5.2 The right to non-discrimination:

Discrimination refers to the exclusion or preferential treatment of individuals based on attributes such as religion, origin, color, gender, or political opinion. It signifies the erosion of equality and the differentiation in treatment between members of the discriminated group and the broader society.

In this context, human rights advocates emphasize that Muslim minorities should not be subjected to discrimination, a principle grounded in international human rights agreements. The United Nations reinforces this commitment in Article 1, paragraph 3, which calls for the promotion of respect for human rights and fundamental freedoms.

5.3 The right to identify and maintain one's identity¹⁶:

This implies that minorities possess the right to define their identity by safeguarding the characteristics that distinguish them, whether these are cultural, religious, or linguistic. The right to identity can only be fully

realized through the declaration and practice of that identity.

6. Examples of Muslim minorities in the world

6.1 Muslim Minority in China:

The Muslim minority in China is recognized as the second largest Islamic minority in Asia, following India, comprising approximately 11% of China's total population, which exceeds one billion people. Islam was introduced to China in the 8th century AH by Muslim traders from the Arab and Persian regions. Over time, Chinese Muslims played a significant role, becoming a crucial component of Mongol rule in the region¹⁷.

The persecution of Chinese Muslims predates the events of December 11, 2001, with a history of suffering that dates back to the early years of Manchurian rule, which lasted from the 17th century until the early 20th century. During this period, Muslims revolted following revolutions that briefly led to the establishment of Islamic states in regions such as Hunan-Kansu and East Turkestan. The ongoing series of persecutions against the Uyghur Muslims in East Turkestan has manifested in various forms over the years, including arrests, torture, unfair trials, executions, and the confiscation of their property. These abuses have been documented and reported by organizations like Amnesty International, particularly during the years 2000-2001¹⁸.

6.2 The Muslim minority in Ethiopia :

Muslims in Ethiopia make up a significant portion of the population, yet they have endured ongoing persecution for decades. Despite representing 80% of the Oromo ethnic group, the largest ethnic group in the country, they are treated as a minority by the ruling government, which is comprised of a Christian minority, mainly the Nigerians and Amharas. This government has adopted hostile and racist policies toward Muslims, implementing settlement policies, enforcing its language on all ethnic groups, and monopolizing top positions in the state while seizing wealth and power, often with the support of external forces to maintain its authority. As a result of these oppressive policies, there has been a substantial increase in the number of displaced individuals, with approximately 75 million Muslims fleeing to neighboring countries such as

Sudan, Yemen, Eritrea, Somalia, Kenya, and even Egypt and South Africa¹⁹.

Muslims in Ethiopia have faced extensive persecution and discrimination, especially following their prolonged armed struggle for independence, which culminated in the establishment of Eritrea as a state on May 24, 1993²⁰.

6.3 The Muslim minority in Myanmar (formerly Burma):

The situation of Muslims in Myanmar (formerly Burma) mirrors the challenges faced by Muslim minorities in the Philippines. Their plight began when the Burmese government displaced nearly 20,000 Muslims, some of whom fled from the Arakan region to Bangladesh. This Muslim minority, known as the Rohingya, has diverse origins, including Arab, Persian, Malay, Mongolian, and Pathan, the latter primarily residing in Pakistan, Afghanistan, and India, and commonly referred to as Pashtuns. According to Western sources, Muslims in the Arakan region constitute about 4% of the total population, which is approximately 42 million. Islam was introduced to the Arakan region in the 7th century AD, and the Rohingya established a kingdom that lasted for 350 years until it was overrun by Burmese invaders in 1784 AD, marking the beginning of their enduring suffering in Myanmar.

According to Islamic sources, the suffering of the Rohingya Muslims in Myanmar is evident in their deprivation of political rights and religious freedoms. They are barred from attending government schools and universities, and significant Islamic endowments have been confiscated, including lands designated for the “Maungd Jim” and “Akyab Jim” mosques, as well as Muslim cemeteries, which have been replaced with sports fields and monasteries.

The economic hardships faced by the Muslim community are compounded by government policies that require Muslim farmers to relinquish a large portion of their rice harvest, which is the staple food for the population. Additionally, the Burmese government has implemented numerous obstacles to the political participation of the Muslim minority. A key hindrance is the 1983 law that grants citizenship only to those who can prove their family lived in Myanmar before 1844, the year marking the start of the Anglo-Saxon War. This law has left many Muslims unable to provide

the necessary documentation, resulting in their exclusion from full citizenship and the political rights that accompany it.

7. CONCLUSION

In conclusion, this research highlights that Muslim minorities in Europe, Africa, and Asia have experienced periods of positive engagement with their societies, where they have been able to integrate and express their identities with confidence, free from isolation and seclusion. However, the challenges facing these communities persist and continue to intensify amid shifting international relations.

It is evident that the International Bill of Human Rights has fallen short of its intended goal of protecting Muslim minorities, as these communities continue to face increasing violations and marginalization in various countries. Given this reality, there is a pressing need to explore more flexible governance models, such as federal systems, which provide greater space for the free practice of religious beliefs.

Furthermore, strengthening collaboration with specialized Islamic institutions is essential for developing comprehensive strategies to address the challenges faced by Muslim minorities, particularly in countries like India and China. Finding effective solutions to these issues requires joint efforts between international and regional organizations, as well as the activation of protection mechanisms that ensure the rights of religious minorities are upheld within the framework of international law.

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