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The International Protection Of Religious Minorities

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Abstract

The issue of the international protection of religious minorities has acquired an international scope and increasing attention within both national and international legal frameworks, in light of documented violations affecting the rights of religious minorities in various regions. Consequently, the international community has addressed this issue through the development of international legal instruments, including human rights treaties, specialized international conventions, and regional legal frameworks aimed at regulating and protecting the rights of religious minorities..

Keywords: *Religious minorities, international protection, international instruments, regional charters.*

1.Introduction:

It is important to note that the issue of religious minorities has assumed an international dimension within the framework of the international community, particularly under the auspices of the United Nations, which cooperates with states to ensure the protection of human rights. This is especially significant in situations where religious minorities are subjected to persecution, repression, genocide, extermination campaigns, and other grave and systematic violations of fundamental human rights solely on the basis of their religious beliefs.

Despite the numerous mechanisms and guarantees expressly provided in various international instruments directly related to the protection of religious minorities or indirect protection through the provision of general human rights provisions, these legal protections are not put into effective practice because of the very concept of these minorities as well as the absence of international control. This is why international law is applied by trying to guarantee more protection for these minorities in the face of the challenges that persist, especially when it comes to creating a balance between sovereignty and protection. The study is done on a descriptive and analytical approach related to the following issues: how can international law be strengthened to ensure more effective protection of religious minorities in face to growing challenges?

2.The historical and conceptual framework of religious minorities.

The concept of minorities as a juridical-political construction specifies certain groups within structures generally defined in territorial terms during the 18th and 19th centuries. In its strict historical meaning, the term is therefore contemporary legal-political vocabulary; the religious is only one characterization of the concept. To better understand, it is important to cite some historical episodes evoking this notion.¹

2.1Historical evolution of religious minorities.

The historical journey of religious minorities is marked by varied experiences, ranging from periods of tolerance to intense persecution across different eras and regions.

2.1.1.Ancient World

Polytheistic societies such as Rome displayed initial tolerance face to Christians and coexistence; yet instances of persecution, such as the treatment of Jews in Babylon. Also some minorities like Zoroastrians in Persia held influential positions while others like early Christians were marginalized before gaining prominence.²

2.1.2.Medieval Period

The rise of Abrahamic religions introduced complex dynamics. Events like the Crusades and the Inquisition highlighted intolerance, while Al-Andalus showcased relative co-existence. The Statute of Kalisz (1264) was an early step in outlining Jewish rights in Europe.

2.1.3.Reformation Era

Religious conflicts between catholics and crotestants led to wars and persecution. The Peace of Westphalia (1648) signaled a move towards recognizing religious pluralism by states. the Edict of Nantes (1598) offered Protestants in France religious liberties, though later revoked.

2.1.4.Enlightenment and Modernity

Emphasis on religious freedom grew, illustrated by the first Amendment in the U.S. Constitution. discrimination persisted, such as the holocaust and modern discrimination against muslims. the universal declaration of human Rights (1948) affirmed religious freedom in Article 18. Contemporary issues include ongoing discrimination and the challenge of integrating religious minorities into secular societies, stressing the importance of interfaith dialogue and legal safeguards.

The rise of populism and nationalism has notably affected minority religious groups globally.³

2.2 Definition of religious minorities

The notion of “religious minority” requires a precise definition, as it can vary considerably depending on the context. a religious minority can be defined as a group of people whose religious beliefs and practices differ from those of the dominant group in a given society. this definition is not only based on numerical representation, but also takes into account social power, legal status and cultural influence. it is important to distinguish religious minorities from other types of minorities, such as ethnic or linguistic minorities, while recognizing that these categories may sometimes overlap. For example, the Jewish people are often seen as an ethno-religious group, where religious identity is closely linked to ethnic identity. understanding the dynamics of religious minorities therefore requires a nuanced approach that goes beyond simple population accounting.⁴

2.3.Definition of religious minorities in international law

The idea of minority was not forged in the human sciences on the occasion of a religious theory or to qualify religious groups, even if it has equivalents in this field: the terms of «sects», or of «community», often appear as conceptual avatars of the “minority”. In order to identify the theoretical and empirical space of a religious minority, it is difficult to do otherwise than to proceed by a detour through the general theories of a legal, sociological or psycho-sociological nature which have been reference models in terms of shape and dynamics of the minorities. If we look at the use of the term in religious sciences, or applied to religious groups, it is obvious that the theme has not given rise to revolutionary theoretical developments, when it was treated about religious grounds. On the other hand, some theories that have originally developed outside the field of study of religions have found, in this particular framework, interesting extensions. The issue of minorities (usually) in the context of inter-group relations, interculturality and, in the political framework, their management and thus multiculturalism. But what is true for ethnic, social or cultural minorities is true for the religious minorities? Are there elements that characterize a religious minority in relation to a minority of another “nature” or another "form" (ethnic, economic, cultural, social)? And religious sciences, have they developed any particular theories of the minority? Some

theoretical minority models have been developed, each providing a unique insight into the issue. Five groups are identified:

- The theories of ethnicity, which are based on the production of otherness by attribution of identity labels to collectives
- The psycho-sociological theories of active minorities, particularly in Serge Moscovici
- The theories of heresy in theology and history of religions, mainly from the field of Christianity, but which have been able to expand,
- The theories of domination in sociology, and especially Marxian, Weberian and Bourdieusian sociology, which has finally established itself as autonomous of the paradigms in which it originated or was thought initially⁵
- A minority science or "oligology" (of "few" oligos and logos, «science») under the pen of Roger Caratini, for some years already, had constituted the «minorities» as a research object and to which it confers both the status of entity to be enumerated (in the many countries that it has itself mapped) and a general concept of the discipline, relativity and concept theoretical marked by sociological and demographic individuals.⁶

3. International legal provisions relating to the protection of religious minorities.

The protection of religious minorities has evolved significantly from an initial approach often centered on the state (such as the League of Nations treaties) to a universal human rights-based framework after world war II. This trajectory illustrates a progressive understanding of the most effective mechanisms to safeguard the rights of these groups. In addition, the coexistence of legally binding instruments and non-binding declarations complicates the legal landscape but also highlights the importance of "soft law" in the orientation and evolution of international law.

3.1.-Fundamental International Instruments of human Rights and Religious Freedom

3.1.1. The universal declaration of human rights (UDHR) and its founding principles:

The universal declaration of human Rights (UDHR), adopted in 1948, is a fundamental document that establishes the principle of equality and non-discrimination for all human beings, without distinction of race, sex, language or religion. Although it is not a treaty, it serves as the moral and aspirational basis for subsequent legally binding instruments. Article 18 of the UDHR guarantees freedom of thought, conscience and religion, a fundamental right that applies to all, including religious minorities. These rights are considered interdependent and interrelated with all other human rights, underlining their intrinsic importance to human dignity. The UDHR, although not legally binding, is thus the moral foundation and guiding principles that inspired subsequent international treaties on religious freedom. Its article 18, in particular, is universally recognized as the cornerstone of the protection of religious freedom in international law.⁷

3.1.2. The International covenant on civil and political rights (ICCPR): focus on article 18 (freedom of religion) and article 27 (rights of minorities):

In 1966, the international society highlighted the International covenant on civil and political rights, which imposes obligations on the states parties while basing on human rights. article 18 sets out in detail the right to freedom of thought, conscience and religion. this right includes the freedom to have or adopt a religion or belief of one's choice, as well as the freedom to manifest one's religion or belief individually or in community with others, in public or private, through worship, the performance of rites, Practices and teaching. Article 18 prohibits any coercion that may limit this freedom. However, the freedom to manifest one's religion or belief may be subject to limitations prescribed by law and necessary for the protection of public safety, public order, public health or morality, or the fundamental rights and freedoms of others. Furthermore, the States Parties undertake to respect the freedom of parents to provide religious and moral education for their children in accordance with their own convictions.⁸

Article 27 of the ICCPR specifically addresses the rights of ethnic, religious or linguistic minorities. It states that in States where such minorities exist, persons belonging to such minorities may not be deprived of the right to have, in common with other members of their group, their own cultural life, to profess and practice their own religion, or use their own language. This article is legally binding and confers rights on individuals belonging to minority groups, distinct from the other rights they enjoy as individuals, ICCPR thus establishes legal obligations for states to protect both general religious freedom and specific rights of religious minorities, recognizing the need for a dual approach to safeguarding religious freedom within a broader human rights framework. The limitation clause in Article 18, while necessary, can potentially create tensions when applied to minority religions, requiring a delicate balance with the protection of their distinct identities and practices under Article 27.

3.1.3. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD):⁹

In 1965 the world saw the birth of an international convention on the elimination of all forms of racial discrimination (ICERD), which became the key instrument prohibiting discrimination based on race, colour, ancestry or national or ethnic origin. Although its main scope is racial discrimination, it is also relevant to religious minorities, especially in cases where religious discrimination intersects with racial or ethnic discrimination. for many groups, religious identity is intrinsically linked to ethnic or racial identity, making the ICRDS an important legal tool for addressing the complex realities faced by certain religious minorities.¹⁰

3.1.4. Declaration on the Elimination of all Forms of Intolerance and discrimination Based on Religion or Belief:

This declaration was adopted by the UN General Assembly in 1981, it is a soft law instrument essential, which focuses specifically on combating religious intolerance and discrimination. It sets out the rights to freedom of thought, conscience, religion and belief, including the freedom to manifest one's religion through worship, performing rites, practices and teaching. the declaration on the elimination of all forms of Intolerance and discrimination

based on religion or belief, adopted by the UN General Assembly in 1981, is a soft law instrument essential, which focuses specifically on combating religious intolerance and discrimination. It sets out the rights to freedom of thought, conscience, religion and belief, including the freedom to manifest one's religion through worship, performing rites, practices and teaching. The declaration also defines intolerance and discrimination based on religion or belief and emphasizes the prevention and elimination of discrimination in all areas of life. Although not binding, this declaration provides a comprehensive articulation of the principles and rights relating to freedom of religion and belief, serving as an important guide for states and international bodies.¹¹

3.1.5. The convention for the protection of national minorities.¹²

The Council of Europe's framework was opened for signature in 1995 and entered into force in 1998, is the only legally binding multilateral instrument devoted to the protection of national minorities in general. It aims to protect national minorities in the territory of the states Parties concerned. Unlike a detailed list of rights, the convention sets out a framework of principles and objectives that states must implement at the national level through laws and policies.

Article 4 of the convention proclaims the fundamental principles of non-discrimination and equality. It specifies that the obligations of a state may also require positive measures to promote full and effective equality between persons belonging to a national minority and those belonging to the majority, taking into account the specific conditions of national minorities. Article 5 commits the states Parties to creating the necessary conditions for national minorities to maintain and develop their culture, as well as preserve their identity, whether related to their religion, language, traditions, or cultural heritage. Article 9 guarantees the rights to freedom of thought, conscience, and religion. Article 14 deals with education and provides for the possibility of minorities to learn their own religion. Finally, article 15 emphasizes the objective of creating the necessary conditions for the effective participation of persons belonging to national minorities in cultural, social, and economic life, as well as in public affairs, especially those which concern them. The convention explicitly recognizes religion as a key element of minority identity that states parties are required to help preserve, going beyond the general guarantee of religious freedom to recognize the collective dimension of religious identity for minorities.¹³

3.2. International cooperation in minorities religion protection:

Although one of the causes that address the problem of minorities is to protect the rights and freedoms of minorities, we must understand that minorities may also face challenges when they are used by geopolitical powers in a process of separatism or when they are caught up in a radical ethnic or religious phenomenon, and may be required to oppose State principles which could undermine the territorial integrity of the state in which they live. This approach constitutes the main concern of international law. In 1992, the United Nations adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, affirming that the promotion and protection of these rights contributes to the political and social stability of states. The UN Human Rights Council and the Office of the High Commissioner for Human Rights (OHCHR) are actively monitoring the situation of religious minorities, mandating special rapporteurs to investigate violations and recommend action. International organizations have an important role in international society,

especially through their contribution to the roles they play in protecting human rights in general and the rights of religious minorities,

particularly through several mechanisms and actions in relying on international law and this through the following elements:¹⁴

3.2.1 Establishing international standards and conventions:

The united nations, for example, adopted legal elements such as the universal declaration of human rights (1948) and the declaration on the rights of persons Belonging to religious groups minorities (1992), which serve as a legal basis for the protection of religious minorities. these documents set out the fundamental principles of freedom of religion and non-discrimination.

3.2.2. Monitoring and reporting on human rights violations:

International organizations, such as the UN Human Rights Council, monitor violations of religious minority rights and publish reports detailing abuses. Special rapporteurs, such as the one on freedom of religion or belief, investigate cases of religious persecution and recommend measures to address them.

3.2.3. Humanitarian assistance and protection:

In crisis situations, such as the persecution of rohingya in Burma or christians in the Middle East, organizations such as the un high commissioner for refugees (UNHCR) provide humanitarian assistance and support to refugees or internally displaced persons. they provide protection services, refugee camps, and resettlement assistance.

3.2.4 Interfaith dialogue and conflict prevention:

International organizations promote interfaith dialogue to promote tolerance and avoid conflicts based on religious differences. the organization for security and co-operation in europe (OSCE) and UNESCO, for example, organize conferences and forums to encourage cooperation between different religious communities.

3.2.5. Education and awareness:

International organizations also conduct education and awareness campaigns to promote understanding of the rights of religious minorities. these initiatives are often supported by educational programs in schools and media to promote tolerance.¹⁵

3.2.6. Concrete activities:

In 2019, the un high commissioner for refugees launched a campaign to help persecuted Christians in syria and iraq rebuild their homes and return to their communities.

In 2023, the united nations adopted a resolution condemning violence against religious minorities in countries such as myanmar and nigeria, with measures to provide humanitarian assistance.

4. Conclusion.

Religious minorities occupy an important place within the international legal order due to the diversity and complexity of their composition. however, this study demonstrates that their protection under international law remains constrained by conceptual, legal, and procedural challenges. the absence of a clear definition of religious minorities, along with the flexible interpretation of religion in international legal instruments, continues to limit the effective application of protective norms. Additionally, geopolitical interests and the limited effectiveness of certain international conventions and mechanisms—particularly within the united nations framework—have affected the practical realization of minority rights.

In response to these shortcomings, the study emphasizes the need for clearer legal definitions of religion and religious minorities, stronger and more enforceable international mechanisms, and the avoidance of political instrumentalization of religious minorities. It also calls for the development of more comprehensive international legal instruments to enhance the protection of religious minorities within the international human rights system.

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