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The Rights of Religious Minorities in the International System of Human Rights and in the Rights of the Islamic System

Abstract

Religious minorities were the first minority groups to receive legal protection became international and only after historical events such as the French Revolution and the independence of America and the growth of national awareness that the support was based on secular and other minority communities They were placed under the protection system. This is while Islam has long given respect and a special place for religious minorities, so that it can be used as a model to support minorities, including in terms of courts. Due to the conditions of time and place, it will be taken into consideration. Ferraro's article is based on a descriptive-analytical method and a library method, with an examination of the support of religious minorities in the Islamic legal system and the international system of support for minorities. While international law, in the form of human rights commitments, has obliged the governments to respect the religious rights of minorities, the Islamic system, based on the institution of responsibility, has provided support to minorities and political rights their civil, economic, social and judicial It is respected and guaranteed. It seems that, in comparison with international human rights, at least in a religious system, the Dhamma organization can better realize the rights of religious minorities.

Keywords: *Religious Minority, Support Of Minorities, Islamic Rights, International Human Rights*

Uluslararası İnsan Hakları Sisteminde ve İslami Sistemde Dini Azınlıkların Hakları

Öz

Dini azınlıklar yasal korumadan yararlanan ilk azınlık grupları olmuş ve ancak Fransız Devrimi ve Amerika'nın bağımsızlığı gibi tarihi olaylardan ve desteğin laik ve diğer azınlık topluluklarına dayandığına dair ulusal bilincin artmasından sonra koruma sistemi altına alınmışlardır. İslam dini, mahkemeler de dahil olmak üzere azınlıkları desteklemek için bir model olarak kullanılabilmesi için dini azınlıklara uzun süredir saygı göstermiş ve özel bir yer vermiştir. Zaman ve mekan koşulları nedeniyle dikkate alınacaktır. Ferraro'nun makalesi, İslam hukuk sisteminde ve azınlıklara yönelik uluslararası destek sisteminde dini azınlıkların desteklenmesini inceleyerek betimleyici-analitik bir yöntem ve kütüphane yöntemine dayanmaktadır. Uluslararası hukuk, insan hakları taahhütleri şeklinde, hükümetleri azınlıkların dini haklarına saygı göstermeye zorlarken, sorumluluk kurumuna dayanan İslami sistem azınlıklara destek sağlamış ve onların medeni, ekonomik, sosyal ve adli haklarına saygı gösterilmiş ve garanti altına alınmıştır. Öyle görünüyor ki, uluslararası insan hakları ile karşılaştırıldığında, en azından dini bir sistemde, Dhamma organizasyonu dini azınlıkların haklarını daha iyi gerçekleştirebilir.

Anahtar Kelimeler: *Dini Azınlık, Azınlıkların Desteklenmesi, İslami Haklar, Uluslararası İnsan Hakları*

Introduction

Religion and religion have always been the most powerful factors in creating order and stability in various dimensions of social and political relations, and religious beliefs are the continuation of society through giving meaning to collective life and making rules. Group relationships are guaranteed (Jahani, 2013, p. 6), and identity Religion is one of the most important elements that create social cohesion at the level of societies. Therefore, it is appropriate and necessary that the religious identity of individuals and groups in the society is logically supported by social systems, especially the legal system, and in a way worthy of this ability to create piety national and international harmony and solidarity be taken away According to international lawyers, starting to support minorities, especially religious minorities you should know the conclusion of the agreements.

After that, in the 19th century, the concern of minority rights became one of the international rights debates, and it reached its peak in the 20th century, especially after the end of the First World War. As it can be said, the main background of the current system of protection of minorities in the current international law goes back to the era of the League of Nations and peace agreements between the dominant and defeated countries (Swamy, 2014, p. 15). Religious minorities were the first minority groups to receive international legal protection. and only after important historical events such as the French and American

revolutions and The growth of national awareness was that the support was based on secular and other minorities (Hidayat & Zubair, 2013, p. 56). Divine religions are the true protectors of human rights, and the religion of Islam is the best in this context. It is special. Reflecting on the concept of fundamental human rights, showing its kinship and compatibility With the ideals of the humanizing school of Islam (Aghaei, 1997, p. 4-5), emphasis on nobility and dignity Man has evidence of a close link between divine religions, especially Islam, with the ideals of human rights.

Human rights is a new version of natural rights, and natural rights are nothing but an expression of natural or divine rights (Mowahed, 2003, P. 60), the protection of religious minorities and persons belonging to They are one of the important issues in Islamic jurisprudence, which are at the heart of The agreement provides basic and mandatory support for religious minorities. This article examines the support received from religious minorities in the Islamic legal system and the international human rights system, in order to find out whether the protection system Islam in the form of the Dhammah institution can be presented as a model for the protection of minorities.

1.The concept of religious minority

In order to get the definition of religious minority, we must first examine the concept of religion and minority.

1.1. Religion

So far, there is no comprehensive definition of religion that can be agreed upon. From the point of view of some contemporary thinkers, the term religion has an ambiguous concept and is never related to one A specific and objective subject does not mean anything in the world. (Smith, 2008, p. 126). In the Persian culture of Umid, the word religion is mentioned in the meaning of way, way, and method. Also, in certain Persian culture, it has been defined as a place to go, a way, a way, a branch of religion, religion, cult, any of the philosophical and religious religions. The word Religion is derived from the Latin root Religio and it means "mixing" (Smith, 2008, p. 129). Black's legal culture also defines religion as follows: "Religion is the relationship of man with God, holiness, Worship, obedience and self under orders And the orders of supernatural and superior existence is to make a contract; Religion in its broadest sense includes all forms of belief in the existence of a superior creator who exercises power over people with their consent or rules of behavior upon them with the promise of reward and punishment imposes" (Lerner, 2024, p. 26). The word religion in Morocco means schools within a religion and even Religion itself is used (Tofighi, 2000, p. 13), in the international system of human rights, the concept of religion It is different and general from its meaning in religious

societies like Afghanistan. According to the human rights committee, religion includes new beliefs and religions in addition to traditional religions, and therefore, Article 18 of the International Covenant on Civil and Political Rights is both one and the same And those who do not express their religious beliefs are supported. It works (CCPR, 27 September 1993)

2. Minority

In Umid culture, minority means "absence, community or group that has a race or have a particular religion or manners and customs and live in a country where most of that country They do not have that religion or that special manners and customs, it is against the majority. The culture of Bazarg Sakhn defines the minority as follows:

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1. A group of people in a society, who are different from the general population in aspects such as religion, culture, race, and political views, and have less than the general population.

2. A section or group of a group whose number of members is less than the general population.

Although there are many references to the minority in international organizations and support Among them, there is no generally agreed and legally binding definition of the term minority.

The Permanent Court of International Justice, in its advisory opinion on July 31, 1930, in response to the question of the Greek-Bulgarian Joint Commission, provided a definition of the term "community" in its opinion The system of minority treaties of the League of Nations uses the word "synonymous communities" as "minorities" the definition given by the court of the concept of minority is as follows:

"A group of people who live in a particular country or land and have their own race, religion, language and traditions and are united by a common racial, religious, linguistic and traditional identity They have a sense of solidarity and preserve their traditions and rituals. They educate their children based on their culture and traditions, and in this direction they help each other" (PCIJ, 1930, p. 21). Capotorti, Special Rapporteur of the Sub-Commission for Prevention of Discrimination and Protection of Minorities, to One of the theoreticians of the concept of minority has given a definition which is a case of wide acceptance of the decision. It is taken from the reference definitions for the study of the minority rights system:

"A group that is smaller than the rest of the country's population and is in a non-dominant position. These members, having the nationality of that state, have different ethnic, religious or linguistic characteristics from other people of the country; However, in an implicit way, they have a sense of solidarity regarding the preservation of their own culture, traditions, religion

and language (Papoutsis, 2014, p. 308). Despite the few definitions that have been provided so far, there is no comprehensive and complete definition of this term in international documents. Perhaps, from the point of view of supporting the rights of minorities, the following definition is more comprehensive and relatively more complete: "Minority is a group of people that is smaller than the rest of the people of a country or state." They are from the country and do not have an effective presence in the government. The members of this group have different ethnic, religious, or linguistic characteristics, and they have a sense of solidarity to preserve those characteristics.

"Minority groups, depending on whether they live in the community or scattered, are citizens or foreigners, and progress and delay in their settlement in the country, receive the protection included in the minority rights system" (Azizi, 2006, p. 134).

3. Religious minority in international law

Considering the past, a religious minority can be defined as follows from the point of view of international law:

"A group of people that has a smaller population than the rest of the country or a state of the country, has a different religion and beliefs from other members of the society and to preserve those features and characteristics They are interrelated; But in different areas, especially in the administration of the society, they do not have the participation and authority effectively and with the same opportunity as the majority.

4. Religious minority in Islam

In Islamic jurisprudence, religious minority means the same religious minority, and religious minority means it is not special and modern. Shia jurists consider religious minorities or people of the book to include the followers of Judaism, Christianity, Zoroastrianism, and Sabaeen religions, and they believe that they do not include them They refer to a narration from Rasul Akram (pbuh) who says: "I don't take jizya from anyone except the people of the book" (Kilini, 2022). The term People of the Book is mentioned thirty one times in the Qur'an and in many cases, it is mentioned against polytheists. In many cases, the Holy Quran has separated the rulings of the two groups, and this itself is a sign of the difference between the two concepts (Emami and Nuraldini, 2014). The jurists of Ahl al-Sunnat also agree that the contract includes the People of the Book and Zoroastrians and does not include apostates. However, Zoroastrians have different opinions about non-people of the book; A group has stated that the pledge agreement only includes the People of the Book and Zoroastrians and does not include the rest of the non-Muslims. This is the saying of Hanbali, Shafi'i, and Zahariyya, but Aza'i and Maliki

have stated that the pledge contract includes other non-Muslims as well. It has been said that the saying of Rajah in the Ahl Sunnah religion is the same saying.

5. Supporting religious minorities in the Islamic legal system

5.1. Minority in the political thought of Islam

Islamic nationality based on the concept of the Islamic Ummah considers all Muslims as a single Ummah who share something called the religion of Islam. Therefore, in Islam, the nation is created by a community of believers, not a community of citizens (Khalilian, 1998), from the point of view of Islam, adherence is based on one of the two pillars of faith (Islam) and covenant (contract). - Therefore, a person is considered a subject of the Islamic State and enjoys the rights of citizenship if he is a Muslim or a People of the Book who has a covenant with the Islamic State.

Therefore, the boundary between self and foreigner is determined only by one of the two mentioned criteria (Danesh Pejoh, 2002). Minorities in the political thought of Islam and the opinions of Islamic jurists and mujtahids, about respect and position. They have special features and the category of religious minorities is one of the newest issues of Islam. It is the beginning of its origin (Ghanea, 2012). In Islamic jurisprudence, religious minority means religious minority, and religious minority does not have a special and modern meaning. Shia jurists consider religious minorities or Ahl al-Dhamma only as People of the Book, who follow Judaism, Christianity, They are Zoroastrians and Sabaeans, and they believe that others are not included, and in this regard, They refer to a narration from Rasul Akram (pbuh) who said: "I am from none except the people of the book.

I don't get details from anyone" (Kilini, 2022), in their opinion, the term of the people of the book is It is mentioned once in the Qur'an and in many cases it is mentioned against polytheists and the Qur'an In many cases, the verdict has separated the two groups, which is a sign of the differenc (Emami and Nuraldini, 2014). But most of the jurists of Ahl-e-Sunnah consider religious minorities as non-Muslims; That is, in addition to Christians, Jews, Zoroastrians and Sabeans, the rest of the non-Muslims are also counted as religious minorities. The jurists of Ahl al-Sunnah agree that the Dhamma contract includes the People of the Book and Zoroastrians and does not include apostates. But they have different opinions about non-people of the book and Zoroastrians; A group has stated that the Dhammah agreement only includes the People of the Book and Zoroastrians and does not include the rest of the non-Muslims, which is the opinion of Hanabala, Shafi'i and Zahriyya, but Aza'i and Maliki say It is known that the contract of deposit also includes the non-book. It has been said that the best saying in the Sunan religion is the same saying, which we will explain below: Taking a detail

from the followers of Magi, while according to the tradition, Magi are not from the people of Book 122 Because the Holy Prophet (pbuh) said: "Senwa Bahm Sane people of the book" treat them (Magi) like the people of the book. So, he decided that the duty is not specific to the People of the Book, and taking part from the Magi is the reason for the permission to take it from the People of the Book. Whenever the Prophet (pbuh) put the command of the Muslim army on someone's shoulders, he gave special recommendations to the commanders and other Muslims and called them to God's piety and said: If you are faced with the enemies of polytheism, suggest them to one of these three. Invite and accept whoever they accept: first invite them to Islam.

If they don't accept, give them an offer of partial payment and a peace agreement, and if they accept, you should also accept it. But if they don't accept, ask God for help and be ready to fight (Zidan, 1962). In any case, it is certain that the followers of the divine religions, who are called People of the Book, will be entitled to the title of citizens in the territory of the Islamic State by concluding a contract. The main existential philosophy of the legislation of the contract in Islam is the creation of a peaceful coexistence between Religious minorities and the majority of Muslims are in the Islamic society. Islam and its main source, i.e. the Holy Qur'an, due to the special respect given to God's prophets, also respect those who are not in conflict with the Islamic community. It is under the protection of the Islamic government (Yusuf, 2007).

Islam never forces followers of other religions to accept Islam; god says: " لا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ «الرُّشْدُ مِنَ الْغَيِّ» (Al-Baqara, 256), meaning there is no compulsion in It is not a religion and the path of guidance and salvation from the path of error and error has been identified. There is a hadith from the Prophet Akram (pbuh) who said: "I am his enemy who hurts Dhimmi, and I will fight him on the Day of Resurrection".

Therefore, Islam not only forces people to accept it, but also warns that no one can harass them. The Holy Prophet (PBUH) advises to behave brotherly with the followers of other religions. In the way that Imam Kasani narrates in Al-Bada'i that the Prophet said: "A long time ago, the agreement of the Dhumma Fa'ilmham is that we are against the Muslims and against them we are against the Muslims"; That is, whenever they accept the pledge, inform them that what is for the benefit of the Muslims, they will also benefit, and what is to the detriment of the Muslims will also be to their detriment (Kasani, 1909) that is, in the Islamic community, the rights and duties of the family The book and Muslims are the same.

2. The rights and freedoms of religious minorities based on the agreement. According to the agreement, religious minorities are pledged in exchange for the commitments they make as long as they remain under the government's protection They are Islamic and they are considered

as citizens of Islamic society and they have rights and The freedoms of citizens are affected. These rights and freedoms include:

6. Basic rights and freedoms

The Islamic government does not consider non-Muslims as foreigners, but with these people. It has been agreed upon and has paid special attention to their rights and freedoms. Here, some of the basic rights and freedoms that have been recognized for religious minorities on the basis of the Dhamma Agreement are described below:

A- Immunity: the right to immunity, based on which life, property, honor, residence and places Religious minorities are safe. Therefore, religious minorities are protected by the agreement. They are an Islamic government and like their fellow Muslims, they enjoy security and immunity. Ensuring their security is the responsibility of the Islamic government. Ali Ibn Abitaleb says: "Dhammies pay jizya; So that their lives and wealth are like Muslims.

B- Freedom of belief and religion: among the freedoms for religious minorities based on Dhamma contract is recognized in Islamic government, it is freedom of belief and religion. As mentioned earlier, there is no reluctance to accept the Islamic faith in Islam. According to them, religious minorities have the right to remain on their religion. In addition, they can perform their religious rituals and ceremonies in their temples and sacred places. In the agreement between Prophet Akram (pbuh) and Najran, it is stated that "no priest or ascetic will be expelled from the church and no imposition or humiliation will be imposed on them." Also, their land will not be occupied by our troops" (Kasani, 1909). C- Freedom of housing: another one of the rights for religious minorities in the form of the agreement. Officially recognized, it is the freedom of housing and choice of residence. Ahl al-Dhamma can live wherever they want in the territory of the Islamic government; Except in the Haram, which is 1- Mecca and what is around it 2- Hijaz which includes Mecca, Medina, Taif and Khyber and 3- Muslim mosques. Also, due to the explicit text of the Holy Quran, no one has the right to enter their private life without their consent.

7. Civil rights and liberties

Ahl al-Zhamma in matters related to civil rights such as transactions, marriage, divorce, inheritance and Like them, they can act according to their religion and are not required to follow Islamic laws. Religious minorities are like Muslims in transactions, except in the case of usurious transactions; because in There is a hadith about this which causes them to be prohibited from such transactions. The Prophet (pbuh) wrote to the Zoroastrians that if you commit robbery or allow it to be carried out, you are at war with God and His Messenger

8. Judicial rights and freedoms

Islam dictates justice among all people who live in an Islamic society, regardless of whether they are Muslims or not (Khafaji, 1998).

9. Economic and commercial rights of religious minorities

The principle of ownership of religious minorities, like the ownership of Muslim people, is respected and protected is going to Imam Ali says: "They have paid jizya so that their blood is the same as the blood of us Muslims, and their wealth is the same as the wealth of our Muslims." Therefore, the sanctity of the property of Ahl al-Dhammah is equal to the sanctity of the property of Muslims. According to the Dhamma contract, religious minorities are free in economic and commercial activities, and Dhamim's property is like the property of Muslims, and both have the same ruling.

If the transaction party is a Muslim, transactions that have no financial value and are against Islamic regulations are prohibited. The Holy Prophet of Islam (PBUH) traded with the Jews of Madinah, and this shows the freedom of economic and business relations between Muslims and religious minorities (Mohammadzadeh & Faridi, 2010). In return, based on the agreement, religious minorities support the Islamic government. They also undertake tasks and commitments; Including partial payment. In this regard, an individual who Paying installments must be intelligent, mature, male and also able to pay installments (Khomeini, 2006), the payment of jizya is mostly because of the protection that the Islamic government provides from They implement; Avoiding war with Muslims or helping polytheists to fight Muslims; Not appearing to commit forbidden acts in Islamic law, such as drinking alcohol drinking alcohol, eating pork, and marrying a forbidden woman (even if it is allowed in their own religion); Avoiding the construction of new temples (church, synagogue, bonfire) and playing bells in temples (Tousi,1991). Also, religious minorities should not betray the honor of Muslims and cause harm and They will be hurt.

10. Protection of religious minorities, from the perspective of the international system for the protection of minorities

10.1. The general essence of the system of protection of minorities

The human rights protection system and the minority protection system are taking the same step. The goal of both the general human rights system and the minority rights system is to achieve equality. However, due to the differences between these two systems, the mechanisms for achieving this equality are different from each other. The prevention of discrimination is sufficient to achieve equality in the general human rights system and has an appropriate efficiency, in the minority rights system, it is able to eliminate and flourish the needs

The special abilities of the people belonging to the minorities, which arise from the difference in the location and status of these people with the normal people, does not have If in the human rights system, any kind of distinction and superiority based on ethnic origin, race, gender, language, and religion is considered discriminatory and is prohibited, the lack of consideration of the characteristics of people belonging to disadvantaged groups Like minorities, it is also subject to indirect discrimination, which is sometimes called substantive discrimination. is mentioned (CESCR, 2 July 2009, para. 9) it ends (Fazaili i and Karmi, 2015). The vulnerability of minority groups has caused people belonging to this group in order to preserve human dignity and achieve substantive equality, in addition to covering protections Human beings are absolute in international law, they need their own protections and rights as well. In this regard, the principle of non-discrimination, like Ply, connects the general human rights system with the minority rights system links (Azizi, 2006), the beginning of the internationalization of human rights through treaties It can be, among others, in some complex agreements between the European countries and the Ottoman Empire.

He sought the support of the Christian minority in the 19th century AD. (Mahrhour, 2018), it seems that in the international system of human rights, there are two different shields and In addition, it is used as the main tools to support religious minorities. They insist on: religious freedom and minority rights (Valentine, 2004). Therefore, in order to understand the support received from religious minorities in the current international law, it is necessary to research and explore the documents and international judicial procedure related to religious freedom and he paid the effective protections of religion and the rights of minorities, especially the religious rights of these groups. This topic, in the future, will be the focus of the observers.

11. Support of religious freedom in international law

In the international human rights system, the concept of religion is different from its meaning in society. According to the Human Rights Committee, religion includes, in addition to traditional religions, religious beliefs and emerging religions, and therefore Article 18 of the International Covenant on Civil and Political Rights from monotheists and non-believers and those who do not express their religious beliefs (para. 1 CCPR, 27 September 1993). This method of construction is an indication of the collective and group dimension of religion and the rights related to it, and hence the rights of religious minorities, as a group and society based on religion, are inextricably linked He finds the body and tantangang; Because the existence and identity of religious minorities is completely dependent on the support of their religion and its manifestations.

This right is included in various international and regional documents such as the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, and the International Covenant on Civil and Political Rights Civil and political rights, International Covenant on Economic, Social and Cultural Rights, declaration of deletion of all forms Intolerance and discrimination based on religion and belief, African Charter of Human and Peoples' Rights, Convention on the Rights of the Child and has been officially recognized; This is a sign of the importance of this freedom in today's world and international law. Accepting religious freedom in current international law means emphasizing equal respect Different religions and recognition is religious diversity. Therefore, religious freedom, in addition to the fact that it has inherent value, is also the cornerstone of the right to determine one's destiny, individual choice, and pluralism. Considering that religion is one of the constituent elements of the culture of individuals and groups, the acceptance of religious diversity can be both a product and one of the elements of the acceptance of cultural diversity in the international system He knows all about human rights. This matter is doubly important for minorities, especially religious minorities; What, in principle, the demand for cultural diversity and the need to preserve and protect it, at least in the first place, by the minority and vulnerable groups that forget their culture and its manifestations They see abodi, it is presented.

12. Protection of the religious rights of minorities in international law

Article 27 of the International Covenant on Civil and Political Rights (1966) as one of the important documents Declaration "XE" International Declaration of Human Rights, which is the most important mandatory international regulation in It is time to support the cultural rights of minorities, especially their religious rights. "In the countries where there are ethnic, religious and linguistic minorities, the right people belonging to such a minority "XE } Minority" in enjoying the culture XE } "Culture"} oneself, expressing and acting according to one's religion or using one's own language, in society with others The members of the group should not be denied." Based on the wording and phrasing of this article, the rights related to XE culture "Culture" {, religion and language, all of which are included in the set of cultural rights "XE } rights are considered "cultural", there are at least some rights that are due to the rights of minorities XE}"Minority rights" must be guaranteed by the member states of the Covenant (Fazaili & Karmi,2016) another important international human rights document, which is called religious rights The culture of "minorities" refers to the Convention on the Rights of the Child. This Convention, in the article 30, on the cultural rights of "Cultural" children belonging to "Ethnic" religious minorities and reads as follows:

"In countries where ethnic, religious and linguistic minorities or people with There are indigenous origin, the right of children belonging to such a minority or indigenous children to benefit from their own culture, to express their religion or to use their language The relationship with the other members of the group should not be denied. It is worth noting that, according to the Committee of the Rights of the Child, the reference to the rights of minorities in the Convention is an indicator of the need to take special measures for the purpose of implementation All people belonging to minorities have their own rights. The United Nations Declaration on the Rights of National or Ethnic Minorities, Religious and Linguistic (1992), which is currently the most important international document, although there are many states in the protection about the rights of people belonging to different minorities, including ethnic religious minorities "Regarding the number, in a part of its provision, the support of the religious rights "XE } cultural rights" {minorities has been pointed out. Clauses (3), (2), (1) and (5) of Article (2) of the Declaration have the following words:

1. People belonging to national or ethnic, religious and linguistic minorities

After them, it is mentioned with the title of persons belonging to minorities), the right to enjoy the culture XE } "Culture", expressing religion and worshiping it and using one's own language in special fields And they have the public freely and without interference or any form of discrimination.

2. Persons belonging to minorities have the right to "participation" and "participation" in life They have religious, social, economic and general culture.

3. Persons belonging to minorities have the right to participate effectively in decision-making. [Election] at the national level, or if necessary at the regional level, regarding the minority that belong to or the region where they live, in a way that does not contradict the internal laws.

4. Persons belonging to minorities, without any discrimination, have the right to establish and maintain free relations and "Peace" with members of one's own group and persons belonging to other minorities, as well as cross-border contact with citizens of other countries with whom they have national, ethnic ties. They are ethnic, religious and linguistic They will have it. In addition to this, Clause (2) of Article (4) of the declaration emphasizes the necessity of taking positive measures by the government in order to empower minorities to express their minority characteristics.

5. Governments take measures to create favorable conditions for the empowerment of individuals related to Minorities in order to express their own characteristics and expand their culture, language, religion, traditions and customs, except in cases where the etiquette and customs violate the internal law and standards They are international, they will take it." As it

was observed, this declaration takes a very progressive approach to the cultural rights of the four minorities, especially the religious minorities It has been shown.

As in the general category of human rights, international documents have been formed at both the global and regional levels, regarding specific categories of human rights such as religious rights and also specific groups including minorities Dahabi, who is supported, also witnessed the formation of documents, consolidated and consolidated, in two We are global and regional.

One of the non-mandatory regional documents that deals with the subject of minority rights, including the cultural rights of these minorities Copenhagen Session of the Conference on Security and Cooperation in Europe (Copenhagen Post Document) It was approved by the Security and Cooperation Conference in Europe in 1990. Copenhagen document in (10) clause on rights National minorities and governments' commitments pay for these rights. In this document, respect for the rights of national minorities is considered a vital element for promoting democracy.

In several clauses of this document, including clauses (30) and (31), the cultural rights of national minorities have been referred to; But paragraph 32 of this document, after reminding that belonging to a national minority is an individual choice, emphasizes the right of individuals belonging to national minorities to express themselves Ethnicity "XE } National identity" {, culture, Language and religion, preservation and expansion of the culture in all its dimensions on the one hand, and the prohibition of forced assimilation on the other hand, are directly related to the cultural rights of minorities But ethnic minorities are also among them. It counts the beneficiaries; which will come below. Sub-clauses (2) and (3) of clause (32) enumerate the rights of national minorities, which are among the cultural rights of minorities, as follows: (2) 32. Emergence and preservation of associations, organizations and educational institutions, XE culture, "culture" and religion in the framework of domestic legislation; (3) 32. Worshiping and working according to one's own religion, including education, owning and operating religious places and carrying out educational activities related to religion in one's mother tongue. Currently, the Framework Convention on the Protection of Minorities of the Council of Europe (1995) is the only binding legal document in relation to minorities in the world Of course, its scope is limited to its member countries. This prominent document, in articles (5) and (6), refers to cultural rights, including religious rights and "cultural rights" of national minorities. Article (5) of this convention stipulates: "Member states undertake to provide the necessary conditions for persons belonging to national minorities in order to preserve and expand their culture." They provide bread and one of the vital elements of their identity, i.e. religion,

language, Traditions and cultural heritage " XE } inheritance. The member states, regardless of the measures taken, follow their general integration policy, from the implementation of policies and actions aimed at the assimilation and integration of persons belonging to national minorities. Against their will, he has refrained from these people in exchange for any action that aims to If it is similar, they will provide support." Article 6 refers to the commitment of the governments to support the minority characteristics of the minority groups and to protect the persons belonging to them against the hostile feelings of the majority society: "Member States, the spirit of tolerance and intercultural dialogue" Encouraging and taking effective measures to promote mutual respect, understanding and cooperation. All the people who live in their country, regardless of ethnic identity XE } "Ethnic identity", their culture, language or religion, especially in the fields of education, culture and media. The member states undertake to protect people who may be exposed to their ethnic identity, language or religion Discriminatory, hostile and violent views or actions take the necessary measures".

The Human Rights Committee, in its general interpretation number (22), in which it referred to Article (18) of the International Covenant on Civil and Political Rights (Freedom of Belief and Religion) - in support of minorities, rights and Freedoms in the field of religion for this The groups are identified, which include: immunity from government interference in religious organizations, freedom to choose religious leaders, freedom to establish places of worship, and the rights of parents of dependent children to the minority groups on teaching their religious teachings and establishing religious schools, holding conferences and press freedom The distribution of religious texts, the right to rest and leave during religious holidays, the protection of minority groups against the hostile feelings of the followers of the dominant religion in the society (Azizi, 2006), it is worth mentioning the Human Rights Committee, Mian. Freedom of belief and religion and freedom of expression are separated and the latter freedom is subject to special restrictions, including the actions authorized by the law and for protection of security, order, public health or morals or protection of Other fundamental rights and freedoms are necessary, it has been recognized (CCPR, 27 September 1993, para. 3, 8) . Governments' commitments to human rights are three-fold: commitment to respect, commitment to protection and commitment to implementation. In their commitment to respect the government, governments should refrain from interfering in the enjoyment of human rights. In the commitment to support, governments should prevent the violation of human rights by third parties. The commitment to implementation obliges the governments to take the necessary technical, administrative, budgetary, and judicial measures to recognize and officially recognize the human rights of individuals (Stamatopoulou, 2007). The religious rights of the minorities,

being among the cultural rights, put all three levels of responsibility on the shoulders of the governments. The human rights committee emphasized this in its general interpretation number (23). (CCPR, 27 September 1993, paras. 6.1-9) The Committee, despite acknowledging the individuality of the rights included in Article 27 of the Covenant, their exercise is the ability of the minority group.

Therefore, the positive actions of the governments in the direction of supporting the identity of the minorities and the persons belonging to them in order to benefit and develop their culture, language and religion in the society with other members of the group. It is considered necessary. (CCPR, 27 September 1993, para 6.2). In addition, the Committee on Economic, Social and Cultural Rights is another international treaty body that oversees the International Covenant on Economic, Social and Cultural Rights in his general interpretation number (21), with the determination of "the right of minorities and Persons belonging to minorities defend their participation in the cultural life of society and the preservation, promotion and development of their own culture (CESCRs, 2009, para. 32). In this regard, the committee states:

"Minorities have the right to cultural diversity, traditions, customs, religion, learning methods, language, communication media (press, radio, television, internet) and other manifestations of identity They are their cultural identity (CESCRs, 2009, para. 32). With this wording, it is clear that the said committee has officially recognized the right of minority groups and people belonging to them to participate in their own cultural life and not only the national society The appointment of minorities as one of the right holders, in Article 15 1) (A) The agreement and reference to the right of these groups to the main elements of their independent cultural identity (language, religion, traditions, customs) and the collective right of minorities to participate in their cultural life has already been validated.

According to the committee, by adopting this approach, it emphasizes that collective rights do not only weaken individual rights, but instead, the two-way development and enrichment of this law It also provides the quq (Johns, 1995, p. 173). Adopting such an approach by the committee is truly an innovation in the field of minority rights protection; Because it is far away from the traditional approach of international and regional texts related to minorities, which only support the rights of individuals belonging to minorities and not these groups themselves (Wiessner, 2011).

Conclusion

Regarding the protections received from religious minorities and the religious rights of individuals belonging to these groups in Islamic law and international human rights, it seems

that the Islamic legal system is up A responsible institution, compared to international human rights, at least in one The religious system can better verify and guarantee the rights of religious minorities. Obviously, the rules of a legal system that is non-religious and sometimes even anti-religious, of the competence, ability and ability to adequately protect the characteristics and identity of religious minorities It has nothing to do with religion and its manifestations. Since the international human rights system claims to support all human beings equally, it pays less attention to minority groups. The fact that the special conditions of the minority groups and the vulnerability of the people belonging to them is an undeniable fact in most human societies. However, the Islamic legal system in the form of full and proper implementation by Islamic countries and religious communities, including the principle of equality of people in the enjoyment of material life The most possible means is able to meet the needs and achieve the rights of individuals belonging to religious minorities. In Islam, the general equality of all individuals, tribes and nations and the elimination of distinctions and specialties relative, calculated, racial, national and class, in the form of a moral recommendation and in the guise of interpretations And literary and emotional statements, through educational or political advice, in the way we read in human literature after the great French revolution, or from the language of intellectuals and founders We hear from international organizations, that its implementation in the future is useful for the interests of humanity and for the sake of Establishing peace and security is not necessary; On the basis of a philosophical and scientific outlook, Islam wants to say that people are all equal to each other, not that they should be equal. Islam puts the idea of "general equality" as a political and social issue on philosophical and scientific foundations to firstly introduce it as a natural Muslim principle and secondly, "human equality". From "legal equality" to Raise the level of "true equality", that is, original, objective, scientific, natural and creative, and elevate "equality" to "brotherhood" in Islam's own term. (Shariati, 2001), One of the great goals of God's prophets, especially the great Prophet of Islam (PBUH), is to guard The human dignity of all human beings, including Muslims and non-Muslims, is the foundation of justice. Minorities have a special place in the political thought of Islam and the opinions of Islamic jurists and mujtahids, and the category of religious minorities is one of the most recent issues of Islam since its inception. It has been. In the Islamic legal system, religious minority refers to the followers of the divine religions of Judaism, Christianity, Zoroastrianism, and the Sabaeans. Of course, according to some traditionalist jurists, the followers of other religions can also be added to these four groups. The main existential philosophy of the Dhammah legislation in Islam is to create a peaceful coexistence between the minorities and the majority of Muslims in the Islamic society, which, by using the Dhammah

institution, is an addition to Tam These are the minimum fundamental rights that are necessary for the human life of all, the conditions of a religious life for the followers. The existence and identity of religious minorities is completely dependent on the support of their religion and its manifestations. According to the rules of international law, governments should protect and respect the religious rights of minorities. But Islamic jurisprudence requires the government and the Islamic community to respect the rights of minorities and provide effective support, based on the Dhamma Agreement, without the need for any international agreement They have done it. It is obvious that the Islamic State and Muslims consider themselves obliged to fulfill the rights of others based on their religious beliefs and as a Shariah duty, and this is the most effective guarantee for respecting the rights of minorities.

It is at this time that international law, especially its human rights rules, is facing a serious challenge, in addition to damages such as political and instrumental approaches Gane also suffers. Today's human rights, which are based on the ideas of liberalism and secularism, understand, pay attention to, and fulfill the religious needs of individuals, especially those belonging to the minority , which are in vulnerable conditions due to the non-dominant situation, is powerless. It is obvious that the rules of the legal system, which is non-religious and even anti-religious, have the ability, the ability, and the ability to adequately protect the characteristics and identity of religious minorities, which are inextricably linked with religion and religion It looks like it has it, it doesn't have it. Islamic legal system, as a system based on religion and religious beliefs, which is rooted in divine and religious rulings, in the form of full and proper implementation by Islamic countries and religious communities The most possible way is able to meet the needs and achieve the rights of individuals. related to religious minorities. In addition, it can be said that the legal institution of Islamic jurisprudence, as a case of recitation, has the capacity to be an effective model in protection The rights of minorities, especially religious minorities, will be inspired and quoted.

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