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## **Defending the honor of religious minorities in the Islamic and western law**

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**Abstract**--The honor of religious minorities is among the challenging subjects that have today created some challenges between the governments as well as the governments and the religious minorities. In general, governments consider defending religious minorities to be a good strategy for unity, peace, and reconciliation. Regarding the challenging nature of the subject and its importance, the author has aimed to investigate the “defending of the honor of religious minorities in the Islamic and Western law” with a descriptive-analytical approach using the library method. The results indicate that honor of religious minorities is the same as protecting the inherent dignity of religious minorities. The theory of dignity and the principle of inequality and indiscrimination in Islamic and western laws emphasize the necessity of protecting the honor of religious minorities. In this regard, defending the honor of religious minorities is a necessity in the current era and the justice-based legal theory is one of its most important foundations. Regarding the necessities and foundations of defending the honor of religious minorities, Islamic and Western laws have adopted some strategies such as the right to protection and recognition of the existence and identity of religious minorities.

**Keywords**--honor, religious minorities, defending, human dignity, Islamic law, west.

## **Introduction**

Adjudication, the establishment of justice, and bringing human beings to the highest level of human perfection are great goals that divine prophets, especially the Holy Prophet of Islam, suffered a lot of hardships to achieve them. However, the greedy and demanding human has violated the rights of his fellowmen to the extent of their annihilation and enslavement and quenched his thirst for blood. The prophets adopted the adjudication as their conduct and sketch and even in cases of victory and conquest, respected the rights of minorities and guided and recommended the majority to adjudication. Sometimes, such behavior led their followers to leave them, but they never abandoned adjudication. Despite the victory and conquest, and the obedience of the majority to them, they never imposed their religion on their opposing minorities with reluctance, and the minorities lived freely in the religious society. This is contrary to the imagination of the antireligionists who believe in the imposition of religion by force and sword. The Muslims not only did not impose their religion on them, but also they attracted them with their sociability in a way that some groups from other countries who were under coercion left their lands and homes and chose the Islamic lands for living, while the history approves the brutality of the followers of other religions against the minorities in their territories and societies such as the massacre of the Yemeni Christians and the massacre and displacing them from their homeland by Jews. Of course, the bloodshed due to racial, tribal, ... prejudices such as the massacre of tens of thousands of Japanese people by atomic bombs cannot be ignored and Islam rejects such behavior and gives special status and respect to all minorities, including religious minorities. Among the necessary discussions in the present era is defending the honor of religious minorities. Although there have been general discussions in Islam about religious minorities, and books such as "the philosophy of law" by Naser Katouzian, "Ayat al-Ahkam" by Fazel Meqdad, and "rights of minorities" by Amid Zanjani have been written in this regard, no independent research about defending the honor of religious minorities have been conducted, and the present study is a new and unparalleled work in this regard. However, some questions are raised revolving around the subject of the present research, such as "What is the concept of religious minorities?" "What is the necessity of defending the honor of religious minorities?", "What are the principles of defending the honor of religious minorities?", and "What are the strategies of Islam and the West in this regard?". The author, to answer these questions, first provides a comprehensive definition of honor of religious minorities and then, based on the obtained information, investigates the necessity and principles of defending the religious minorities and finally, provides some suggestions and solutions in this regard.

## **Conceptology**

Discussing any subject requires acquaintance with the keywords and some preliminary information. In this regard, we would deal with the conceptology of the research terms and words in the following:

## **Honor**

Honor originally means height and a high place (Tarihi, 1416 A.H., vol. 2, p. 501), honor, credit (Dehkhoda, 1998, vol. 2, p. 479), dignity, chastity, and magnanimity (Moein, 2007, Vol. 1, p. 561), and idiomatically, the reputation of people in the society. Reflecting on the idiomatic meaning of honor, it can be said that the idiomatic meaning of this word was influenced by its literal meaning.

## **Religious Minorities**

Lexically, minority means being small, low, and the smaller portion which is opposed to the majority (Dehkhoda, 1998, Vol. 1, 548; Moein, 2007, Vol.1, 207). Idiomatically, it is a group of a country's residents that numerically makes up a smaller portion of the population of the country and does not participate in the sovereignty of the country. This group has different ethnic, religious, or lingual attributes from the majority and there is a kind of solidarity between them that is derived from a collective will for survival their goal is achieving real and legal equality with the majority of people (Khobravi Pak, 2005, 28). Perhaps, it can be said that Islam consists of several sects, so, in general, the sect is the same as religion. When it is talked about the religious minority, for a religious group to be in the minority, the situation should be in such a way that it stimulates a sense of vulnerability or even Self-deprecation (Palcero, 1993, 36), and the mere low population does not mean that a group is in the minority. Due to the forced mixing of nations, there are few countries with all their residents having the same religion, and all people having the same national attributes of the ruling person(s) or majority. In the past, the racial and religious political systems have been executed by the governments with higher prejudice and intensity and thus, they viewed the minority as foreigners. In countries with such a system, in which the basis of nationality was religion, the foreigner did not follow the religion of the rulers or the majority. As a result, except for some rare cases, the minorities were usually disadvantaged, and not only were deprived of the resources and rights the official religion and race of the country enjoyed but also basically, they were mistreated by both governments and people, which created pathetic scenes.

## **Honor of Religious Minorities**

Regarding the lexical and idiomatic meaning of 'honor', it can be said that the honor of religious minorities is the same as the right to dignity of religious minorities. Therefore, to understand the right to dignity, we have to know the meaning of dignity itself. Dignity means honor, esteem, and respect which are the origin of respecting a creature. Lexically, there are other meanings for this term such as to be magnanimous, generous, chivalrous, caressing, beneficence, magnanimity, forgiveness, giving, honoring someone, respect, and reverence. These meanings are provided in Dehkhoda's dictionary under the entry of dignity (Dehkhoda, 1998, Vol. 1, 631). What fits our discussion is the same as honor, esteem, and respect value. Therefore, human dignity means that man is a creature with honor, esteem, and respect values (Jafari, 1990, 349-350). Regarding the guidance of wisdom and conscience and based on authentic Islamic sources, human dignity is of two types: Natural human dignity and divine human dignity.

1. Natural human dignity is the same dignity the Almighty God has granted to all human beings without any exceptions. Verse 70 of Surah Al-Isra indicates this favor of God: “ و لقد كرّمنا بني آدم حملناهم في البر و البحر و رزقناهم من الطيبات و ” فضلناهم على كثير ممن خلقنا تفضيلا (We have honored the children of Adam and carried them on both land and sea. We have provided them with good things and greatly preferred them above much of Our creation) (Al-Isra, 70).
2. Divine human dignity is the honor, esteem, and value that is obtained with voluntary efforts in the path of refinement of the soul, acquiring knowledge, finding existence, and getting closer to the Almighty God, for which recognition and respect for human dignity is one of the essential prerequisites. This is the great dignity the Almighty God has indicated: “ يا أيّها ” (النّاسُ إنّنا خلقناكم من ذكرٍ و أنثى و جعلناكم شعوبا و قبائل لتعارفوا إنّ أكرمكم عند الله أتقاكم إنّ الله عليّمٌ خبيرٌ (People, We have created you from a male and a female, and made you into nations and tribes that you might know one another. The noblest of you before Allah is the most righteous of you. Allah is the Knower, the Aware) (Hujraat, 13). Each of these dignities has different levels and the criterion of the difference in degrees with the quantity and quality is the awareness of the greatness and value of human existence and the fruition of the divine personality that governs the management of human existence in a meaningful world (Jafari, 1990, 356-7). The right to human dignity (honor) is considered one of the important rights of religious minorities which is noted in the following examples:
  - a. The commandment sentence that Amir al-Mu'minin (AS) said in the command of Malik Ashtar, mentions the background and basic requirement of dignity and honor: “ و اشعر قلبك الرحمة للرعية، و المحبة لهم، و اللطف بهم، ” (ولا تكونن عليهم سبعة ضارية (ضارية) تغتتم أكلهم، فإنهم صنفان: إما اخ لك في الدين، أو نظير لك في الخلق (Habituate your heart to mercy for the subjects and affection and kindness for them. Do not stand over them like greedy beasts who feel it is enough to devour them, since they are of two kinds, either your brother in religion or one like you in creation) (Nahj al-Balaghah, Letter 53, 142). His expression denotes natural human dignity.
  - b. Also, there is a very famous narration from the Holy Prophet (PBUH): “الخلق كلهم عيال الله و أحبهم إليه أنفسهم لهم” (All people are like the lineage of God, and the most beloved of them are the most beneficial to his lineage) (Mohammadi Reyshahri, 1427 A.H., Vol.7, 309, Hadith 12757). This is the same as the divine-human dignity which has introduced the people to be a lineage of God, and there is no advantage and exception to this lineage.
  - c. Mohammad Bin Jafar Al-Aoghba narrates from Amir al-Mu'minin (AS): “ايها الناس ان آدم لم يلد عبدا ولا أمه و أن الناس كلهم احرار ولكن الله خول بعضكم بعضا فمن كان له بلاء فصبر ” (O people, neither Adam nor his people were not born slaves, and that all people are free, but God has empowered some of you to others, so whoever has an affliction, then he is patient in, so let him not grant it to God) (Feiz Kashani, 2009, Vol.14, 20). In this narration, in addition to approving the non-originality of slavery in Islam, the dignity of all people is also raised with freedom documents (freedom and liberality).

In verse 8 of Surah Al-Mumtahina, it is said: “ لا ينهاكم عن الذين لم يقاتلوك في الدين ولم يخرجوكم من ” (دياركم أن تبروهم و تقسطوا اليهم

those who have neither made war on your Religion nor expelled you from your homes. Allah loves the just) (Al-Mumtahina, 8).

Based on the concept of this verse, it can be said: The eminent examples of this verse were “The people of the book”. Based on the examples mentioned above, if the people of the book act in accordance with their claim of attribution to the divine prophets (and not for the formalities and obtaining the legal privileges that each of the four schools has established for their followers), they will hold a value dignity and honor, since they are more ready to walk in the path of absorption in perfection due to having and accepting a school documented by the infallible revelation. This group has obtained a very important degree of perfection due to their obedience to prophets which prepares them for the increase in dignity, esteem, and respect (Jafari, 2010, 359).

### **Necessity of Defending the Honor of Religious Minorities**

The legal system of religious minorities is placed in the framework of the general legal order on the one hand, but there are differences between human rights and the rights of religious minorities on the other hand, in a way that the latter should have a separate and specific nature (Azizi, 2008, 38, P.139). The people of the religious minorities are human beings before being in these groups, and human dignity requires that they, as human beings, should enjoy the fundamental rights in the international documents (Ghari Seyed Fatemi, 2009, 106). The principle of non-discrimination is like a bridge that connects these two systems, i.e., the right to dignity of religious minorities is not merely realized with the principle of non-discrimination and it is required that religious minorities enjoy special privileges and this enjoyment of such advantages does not mean their enjoyment of human rights, but the use of these advantages is justified to preserve the substantive equality of religious minorities, and observance of their rights leads to maintenance of peace and security (Azizi, 2008, 139).

### **Theory of Human Dignity**

Human has dignity. Now, it should be said that human dignity is an inherent attribute and cannot be separated from him. The inherent is used in different meanings:

- a. Isagoge Inherent: Inherent in this category means the essence of an object, such as substance and season, as opposed to general and specific Araz (accident). According to this meaning, speaking is one of the human essences, but things like laughing and crying are considered human desires.
- b. Haml (Predicate) Inherent (Olum Inherent): In this category, inherent means inherent Araz versus strange Araz. The predicate in a case can be an inherent Araz, when in the definition of that case, the subject of that case, the object of that case, the gender of the subject, or the Maruz of the gender of the subject of Ahah Shah. For example, when they say: the passive participle, the passive participle, the past participle, or the definite object, in all these cases, we are dealing with predicates that are inherent. Because in the definition of the predicates of these cases, the subject, the noun of the

subject, the gender of the subject, or the object of the gender of the subject are taken. From Avicina's point of view, the criterion for distinguishing inherent from strange Araz is to obtain a predicate in the definition of the subject or to obtain the subject or one of its constituents (such as its gender) in the definition of the predicate. If a predicate meets this criterion, it will naturally be an inherent Araz, but if it does not meet this criterion, it will be considered as a part of Gharibah A'araz.

فما كان من المحمولات لا مأخوذا في حد الموضوع، و لا الموضوع أو ما يقومه مأخوذا في حده، " فليس بذاتي، بل هو عرض مطلق غير داخل في صناعة البرهان مثل البياض للققنس و إن كان لازما (Avicina, 1405 A.H., p. 127) According to the popular view, the inherent Araz is the one that is equal to its object without mediation.

- c. Haml Inherent: Inherent in this sense is the concept of the predicate and the opposite of the Bil-Zamimah (suffix). Based on this meaning, when we say that the existing essence is of the type of inherent Araz because the existing Haml does not need a Zamimah. But if we say that the 'al-Mahiyah Mowjudah' is a Mahmul of the Bil-Zamimah type because it is not possible to carry this predicate without mediating its subject; That is, the being is carried over to it using the Oruz of the existence on the nature.
- d. Haml Inherent: Inherent in this sense is the adjective of Haml, not the adjective of the Mahmul. Haml in this sense is opposed to common Haml. Examples such as "الانسان انسان" or "الانسان حيوان ناطق" are of the first kind. In this type of Haml, the subject and the predicate are the same and there is not much difference.
- e. Borhan Inherent: This type of Daei includes the first and second inherent meanings. In other words, the essence in this category includes the essence of the Isagoge and the essence of the Hamal 1, which itself has various types.
- f. Ilal Inherent: Ilal inherent is the opposite of accidental, when we say: whenever the sun rises, the sky brightens, we are talking about an inherent relation because the rising of the sun is the cause of the brightness of the sky. But when we say: whenever the sun rises, the donkey brays, we are not talking about an inherent relation, but rather an accidental relationship. This type of inherent is discussed in terms of conditional cases (Muzaffar, 2003, 378).

Now one should ask what inherent dignity means for humans. It seems that the inherent dignity for humans is not in the inherent sense of Isagogi, because although dignity is a necessity of man, it is not part of human nature. The Ilal inherent is not applicable here either, because this essence is used for conditional theorems. Inherent in the first sense is also not meant here, because this inherent type is used where there is some kind of identification between the subject and the predicate. The inherent sense of Bil-Zamimah Mahmul is also not appropriate here because carrying dignity to human beings is not a Bil-Zamimah Mahmul, but it needs a mediator. First of all, the desired capacities and capabilities in humans should be examined, then we can talk about dignity.

Therefore, if dignity is inherent, it must be of the Haml or Olum type. Relatively different criteria were presented in the Olum inherent, such as the fact that the inherent Araz is common which is taken in the definition of the subject or the subject in its definition. It is a predicate that has become a part of its subject

without or through the mediation of an equal thing, and finally, a common thing whose relation is not false.

According to each of these criteria, dignity is inherent to human beings. If we consider the criteria of definition and say that a predicate is an Araz inherent that is taken in the definition of the subject or the subject or one of the constituents of the subject is taken in its definition, we must say that dignity is the Araz inherent of human beings, because, in the definition of Karim, human or at least the human species (animal) is taken with the human species (body). But if we say that the Araz inherent is accompanied by an equal mediator, or is without it, then again, dignity is inherent to human beings because dignity may not be associated with a human being, but it is associated with the 'On the soul', which is equal to a human being. But if we consider the criterion to be non-falsity, then there will be no more problems because the relation of dignity to human beings is not far-fetched or strange in any way, so falsehood is necessary.

We said that man has dignity and dignity is inherent in him. Now it should be said that dignity, which is inherent in human beings, naturally exists in all human beings. According to the previous content, it seems that this content does not need much proof because when a person has dignity and dignity inherent to him and cannot be separated from him, naturally, this point is proven that all humans have dignity.

Dignity, as mentioned, is a basis for humanity, and humanity of the man is a basis for on the soul. Since On the soul exists in all people, men and women, children, teenagers, and the youths, mad and wise, therefore, dignity is also universal and exists in all people. Muslim philosophers do not have an explicit statement about the generality of dignity. Their explanations are only about the on the soul, which is a general and comprehensive phenomenon, and since dignity is associated with it, and is abstracted from it, therefore, dignity also becomes general according to this ability.

The compilers of the Universal Declaration of Human Rights were influenced above all by the ideas of the famous German philosopher Immanuel Kant in using the term inherent dignity. Emphasizing the inherent value of man, Kant believes that only human being has a personality, and as the subject of a moral-practical act, is above any value. Man, as a person, has duties towards himself that his intellect sets for him. A small aspect of human merit as an animal should not destroy the glory and greatness of a man (Nobahar, 2004, p. 615).

The preamble of the United Nations Charter refers to the dignity and value of human beings as follows:

"We, the people of the United Nations, decided to protect the future generations from the scourge of war, which in a human life has caused unspeakable suffering to human beings twice, and reaffirm our faith in the basic human rights, the dignity and value of the human personality and equal rights of men and women as well as between nations, both large and small, and creation of the necessary conditions to maintain justice and respect the requirements arising from treaties

and other sources of international law, and contribution to social progress and better living conditions with more freedom... ».

Today, respecting human dignity and human rights as a shield to protect this dignity is considered one of the fundamental foundations of social order, and governments have a crucial and vital task in this regard, and basically, the legitimacy of governments should also be evaluated based on respecting human dignity and the rights derived from it (Qomashi, 2011, vol. 1, p. 82). And this matter is so important that the protection of human inherent rights is one of the principles and foundations of the world order and the foundations of human peace (Abdollahi, 2014, p. 45).

The issue of religious minorities is one of the central issues of post-modernist thought and defending the honor of religious minorities is one of the important issues of the international community and one of the important concerns in the discourse of legal justice (Bahadori Jahormi, 2012, vol. 2, p. 128). And religious minorities are one of these minority groups.

### **Principle of Equality and Non-discrimination**

Equality means oneness (Ibn Manzoor, 1419 A.H., vol. 3, p. 412; Tarihi, 1416 A.H., vol. 2, p. 381). Equality is one of the principles of public rights. All people regardless of gender, class, religion, wealth, and occupation should have equal rights and duties. Equality means the equality of all members of society in using divine blessings and social advantages. The duty of the legislator in any society is to provide natural, social, economic, and political facilities to everyone equally and to allow the people of a society to use potential and existing facilities equally (Ashuri et al., 2015, p. 59). Equality has been emphasized a lot in Islam and there are many verses about it (Hujraat, verse 13; Baqarah, verse 29; Baqarah, verse 164; Ibrahim, verses 32 and 34; Jathiyah, verse 13).

Article 1 of the Universal Declaration of Human Rights asserts that:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”.

Also, Article 2 of the declaration asserts that:

“Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or another status. Furthermore, no distinction shall be made based on the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty”.

Clause 1 of Article 2 of the International Covenant on Civil and Political Rights and Clause 2 of Article 2 of the Economic and Social Rights emphasize guaranteeing equal rights for all people.

the principle of non-discrimination is one of the fundamental principles of the international system of human rights. The most frequent definition used for the concept of discrimination is the definition in Clause 1 of the International Convention on the Elimination of All Forms of Racial Discrimination:



“In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

Article 26 of the International Covenant on Civil and Political Rights again emphasizes the principle of non-discrimination:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or another status”.

The difference between this article and the second article of the same covenant is that, in addition to complying with the principle of non-discrimination in the enjoyment of the rights contained in the covenant (Article 2), the governments are obliged to benefit all people without discrimination from all the rights and privileges stipulated in the domestic and other international documents, including the rights that are not mentioned in the International Covenant on Civil and Political Rights (Fazaeli, Karami, 2016, p. 67).

In the international human rights system, equality and non-discrimination can be seen as two sides of the same coin, one of which is negative and the other positive. This means that equality is achieved when there is no discrimination and there is discrimination when equality is not observed. This is where we can understand the importance of non-discrimination in protecting the rights of minorities (Fazaeli, Karami, 2016, p. 72). With discrimination, their human dignity, which is considered their honor, is endangered, therefore, by reflecting on the theory of the principle of equality and non-discrimination, it can be said that Islam and Western law, according to the theories of human dignity and the principle of equality and non-discrimination, make it obligatory to defend the honor of religious minorities.

### **Maintenance of Peace and Security**

Security is one of the most vital needs of human beings and the core of the existence and national interests of societies and countries. Since, from the perspective of fundamental rights, governments are responsible for ensuring the security of the communities under their rule, the degree of realization or lack thereof is also important as an important indicator in examining the nature of political management of countries and their efficiency (Taghavi, 2009, p. 9). In the prioritization of human needs, the need for security is immediately after the basic needs (air, food, housing, and clothing) (Moradian, 2006, p. 88). To fulfill their biological needs, humans enter into various relationships with each other and form a society. The most important need of any society, whether it is a clan, a tribe, a nation, or a country, is to ensure the security of that society and its people (Roshandel, 1995, p. 38).

Article 1 of the United Nations Charter states the objectives of the United Nations: "Maintaining international peace and security and accordingly, taking effective collective measures to prevent and eliminate threats to peace and stop any act of aggression or other violations to peace, and providing means to adjust and resolve international disputes or situations that may lead to a breach of peace, by peaceful means according to the principles of justice and international law".

So, as stated, the most important goal of this organization has been maintaining international peace and security.

In the preamble of the Declaration on the Elimination of All Forms of Prejudice and Discrimination based on Religion and Belief (1981), it is stated that the ignorance and violation of human rights and fundamental freedoms cause war and great suffering for humans and lead to hatred between ethnic groups and nations.

The adoption of nationalistic policy along with prejudice or the imposition of a certain characteristic by a ruling group, be it religion, language, or ideology, always leads minority groups to protest or prevent them from active participation in society. And this itself leads to hatred and separatism (Khubroo Pak, 2014, p. 13).

One of the goals of protecting the honor of religious minorities and guaranteeing the rights of these groups is to ensure the possibility of peaceful coexistence between the minority and the ruling majority. Observing and guaranteeing human rights in general and the rights of minorities in particular and paying full attention to the concerns of minority groups, in both the operational and structural aspects of preventing internal conflicts, is of vital importance. (Halida Nasic, 2007, p 69; Sharath Srinivasan, 2006, p 2).

### **Basics of Defending the Honor of Religious Minorities**

Currently, in the legal system of Islam and the West, two important and new theories have been proposed regarding the defense of the honor of religious minorities (Hashemi, 2002, p. 79). These two theories and one of the principles of human rights are mentioned below:

#### **Legal Theory based on Justice**

Justice is the highest human value and a precious gem on the way to realizing human rights. Everyone has accepted that the main goal of humans is to achieve justice. Even many believe that freedom is not a goal, but a means to achieve justice. Justice has no restrictions. Even some scholars have come to fairness, that it is a thinner and more subtle degree of justice. Justice requires every debtor to pay his debt to the creditor, but fairness requires that if a helpless sister owed money to a creditor who is her brother, she should be given a deadline and the judge should not comment immediately. In addition, justice governs freedom and equality. Various thinkers have spoken about justice. Even some supporters of the theory of natural rights in the present time consider justice and the advocacy of justice as the basis of natural rights... and some opponents of natural rights consider the goal of rights to be justice, as Rubiet, although rejecting the innateness of rights, writes in this regard: "The purpose of all legal rules is to implement justice, and there is no better interest than that" (Katouzian, 2015, p. 42). But among the new thinkers of the West, the theory of the contemporary

philosopher, John Rawls, is especially important in explaining this principle. "Rawls bases two principles in the just society. According to the first principle, all people should have equal and similar rights... In the second principle, distributive justice is taken into consideration, and providing more services to the weak is considered a kind of justice" (Hashemi, 2003, p. 81). With this view, attention to the dignity of religious minorities can be discussed both from the point of view of equality and the second principle of John Rawls, that is, providing more service to the people who have been oppressed and coerced throughout history.

This basis is also accepted in Islam. So that justice is considered one of the goals of the prophet's mission, and the Holy Qur'an has addressed this principle in several verses, some of which are mentioned in the following:

- "We have sent Our Messengers with proofs and sent them with the Book and the Scales so that people might establish the Scale (of justice). We have sent down iron in which there is great might and diverse benefit for people so that Allah knows those who help Him and His Messengers in the Unseen. Indeed, Allah is the Strong, the Almighty" (Al-Hadid, 25).
- "Allah orders you all to hand back trusts to their owners, and when you judge between people you judge with justice. Indeed, the best is the exhortation with which Allah exhorts you. Allah is the Hearer, the Seer" (An-Nissa, 58).
- "They are listeners to lies and devourers of the unlawful. If they come to you, judge between them or turn away from them. If you avoid them they cannot harm you in anything; but if you judge, judge between them with fairness. Allah loves the just" (Al-Maeda, 42).
- And other verses such as Al-Maeda, verse 8; Al-Mumtahina, verse 8; An-Nahl, verse 90; Al-Shura, verse 15; Al-A'raaf, verse 29; aN-Nahl, verse 76; An-Nissa, verse 135; Al-A'naam, verse 152 have been revealed about this subject.

The Constitution of the Islamic Republic of Iran, which is in accordance with the teachings of Islam, emphasizes justice in its introduction (Hashemi, 2003, p. 82) and considers the existence of a just jurist at the head of the government as one of the main elements of the Islamic government in many cases. Also, in the second principle, this law considers justice as one of the foundations of the system. Islam is also a messenger of justice, and according to Islam, justice is present throughout the creation system (Javadi Amoli, 2014, p. 220).

On the other hand, ethnic domination is a reflection of the political, social, and economic power of a particular group, which facilitates the political-economic dependence of minorities and creates dissatisfaction... This domination is the source of deprivation and loss of rights of other groups... The confrontation of different social and ethnic groups becomes inevitable when each of the ethnic groups imagines itself in an unfair situation. This mental - and even objective, real, and concrete objective - can be understood and received in various fields, including political, economic, social, cultural, and military aspects. It can be seen in obtaining political power and occupying high levels of government, key military ranks, access to welfare, health and economic facilities, social dignity and respect,

preserving their language, dialect, dress, customs, rituals, values , and cultural institutions, etc. (Maqsoodi, 2002, p. 55).

Justice demands that the rights of each of the tribes and ethnicities are given to them and that their rights are avoided. On the other hand, justice requires that the honor of religious minorities refrain from violating national rights and territorial integrity, and national security. According to Taylor et al., race relations and multiculturalism issues are affected by the presupposition that refusing to recognize [their rights] can be considered as one of the forms of oppression and coercion (Ibid., p. 56).

### **Principle of Equality and Non-discrimination**

At the end of the 80s and the beginning of the 90s, the issue of the rights of religious minorities became one of the most important global concerns. In these years, we have witnessed very violent internal conflicts, the spread of which has been accompanied by many human pains and sufferings, mass displacement of people, and severe disruption in economic and social life. The new conflicts born of the collapse of the former Soviet Union and the disintegration of the former Yugoslavia were added to unsolvable internal conflicts in Africa, Asia, and Latin America. In the case of Yugoslavia, we have even witnessed the expansion of the hateful and criminal act of ethnic cleansing.

Many of these conflicts stem from minority dissatisfaction, born of protests against long-overlooked discrimination. During the past centuries, many countries have adopted harmful policies of discrimination against subjugated and indigenous people. These feelings are spreading in countries today in the form of new forms of racism and xenophobia. Millions of people experience discrimination, violence, and exploitation every day.

The meaning of equality is not that all human beings are completely equal, and it also does not mean that human beings are the same as each other... The existence of differences between human beings is completely clear and this is based on the same general law that "Anything does not enter into the world until it finds its individuality using the essence, factors, effects, and means. Therefore, the meaning of equality is not equality in all dimensions, but considering the various dimensions of humans, they have three types of sameness (equality) concerning each other:

1. Equality in connection with the origin and principles of existence;
2. Equality in nature and attributes that all humans have.
3. Contractual equality against natural and state rights and other laws that are necessary to regulate the natural and reasonable life of humans. (Jafari, 2006, p. 478).

In other words, the principle of equality is that all members of the society (under equal conditions) have the same rights and duties... (based on what was mentioned) as long as equality between the individuals is not established, social justice, brotherhood, and freedom will not be realized (Hashemi, 2003, p. 217). As Martyr Motahari in the book 'Divine Justice' states in one of the definitions of

justice: "If the meaning of justice is that no competence are respected, this justice is the same as oppression, but if the meaning is that justice means equality in the field of rights, of course, it is the correct meaning. Justice requires this kind of equality and this meaning of equality is one of the essentials of justice".

Equality is emphasized a lot in Islam and there are many verses in the Holy Quran about this principle.

The Constitution of the Islamic Republic of Iran has also taken a big step in this regard by declaring that "the people of Iran have equal rights regardless of their ethnicity and tribe, and color, race, language and the like will not be the cause of privilege" (Article 19). This law says in Article 20: "All people of the nation, men and women alike, are under the protection of the law, and enjoy all human, political, economic, social and cultural rights in accordance with the standards of Islam." Also, "eliminating unfair discrimination and creating fair opportunities for everyone in all material and spiritual fields" is among the basic policies of the government which is mentioned in Clause 9 of Article 3.

In addition to these, the constitution has mentioned the principle of equality in various principles, which are briefly mentioned:

- Mentioning the general duties of the government to expand the fields of equality in the third article (clauses 3-8-10 and 14)
- The equality of the leader with the people before the law (under Article 107)
- Equality before the courts (Article 34)
- Equality in paying taxes is not predicted, especially in the Constitution. But in Article 20 (the equality of people in the protection of the law) and Clause 9 of the third Article (eliminating unjust consequences and creating fair facilities for all), this principle is mentioned indirectly.
- Equality in terms of employment in governmental jobs (clauses 8 and 14 of Article 3 - Article 19 - Clause 2 of Article 43).

In its preamble, the Universal Declaration of Human Rights introduces the "equal rights" of the members of the human family as "the basis of freedom, justice, and peace" in the world. This declaration says in the article: "All human beings... are equal in terms of dignity and rights". It also states that "Everyone can, without any discrimination, especially in terms of race, color, sex, language, religion, political opinion or any other opinion as well as nationality, social status, wealth, birth or any other status, benefit from all the rights and all the freedoms mentioned in this declaration. In addition, there will be no discrimination based on the political, administrative and judicial, or international status of the territory to which a person belongs.

In the International Covenant on Civil and Political Rights (Clause 1, Article 2) and the International Covenant on Economic, Social and Cultural Rights (Clause 2, Article 2), it is emphasized that "the equal rights of all members of the human family are recognized as the basis of freedom, justice and peace in the world and the preamble of both covenants obligate member states to "guarantee the rights recognized in the present Covenant to all persons... without any discrimination...".

Obviously, in the case of members of different ethnic groups, it is necessary to respect equality and create equal opportunities for their progress and well-being.

## **Strategies for Defending the Honor of Religious Minorities in Islamic and Western law**

One of the most important results of human rights in Islam is the recognition of freedom of belief and religion so that people's beliefs are protected from any aggression and violation. Hence, insulting other people's religious beliefs, especially their sacred things - which are highly respected by them (Pour Layalestani, 2008, p. 209) - will be disrespectful and a clear violation of human rights and religious freedom.

Although not insulting the religious beliefs of others is a logical result and one can even say a mandatory result of freedom of belief and religion, it is not explicitly prohibited in any of the human rights documents, except the Declaration of Islamic Human Rights, and even in the preamble, which was approved by the Human Rights Commission and then the Economic and Social Council of the United Nations under the title of "Insulting the religions", such an act has not been explicitly condemned and prohibited, and only the approvers of the resolution have expressed their concern that there is a stereotypical view of religions (Ebadi, 2019, 174-175). Therefore, it is necessary to review the contents of the declarations, particularly the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights, to effectively prevent the insulting of religions and religious sanctities. Reflecting on the laws of Islam and the West, we can say that the right to respect and freedom of belief and religion is one of the most important strategies for defending the honor of religious minorities in these laws, which will be discussed below.

### **The Right to Respect**

The right to have collective respect and not to be insulted by others and, accordingly, the right to complain against insulting people are among the strategies for defending the honor of religious minorities in Islamic and Western law.

The jurisprudential statements and opinions of the Guardian Jurist in the Islamic Republic of Iran are the source of laws and policies. For example, his opinions about the equality of dowry between women and men, insurance, and women's inheritance from the land, although against popular opinion, became the basis for the enactment of the laws in the Islamic Consultative Assembly.

In this section, the jurisprudential opinion of Ayatollah Khamenei, which was given in the Kharij course in Fiqh on 20/04/2010, regarding the imitation of ethnic dialects, is mentioned:

"Unfortunately, an ugly thing is common among people who imitate the dialects of some provinces; Is this considered backbiting or not? Now let me tell you this too. Most of these cities whose dialects are imitated are cities that have zealous people who stood in front of enemies and invaders in important events a hundred years ago. This is not a coincidence. This imitation has no history either, i.e., in none of these literary and satirical books, etc., we did not see a single letter that indicates accent imitation. But it is seen recently, that means, for example, from a hundred

years ago onwards. That is because our country has faced these enmities. One of the regions that have firmly stood against enemies in the northern regions, is the Gilan region. One of the regions is Khorasan. One of the regions is Azerbaijan. These are the places where its people showed firmness and bravery. By the way, it has been tried to make these things popular among people in terms of accent, that is, it is imitated. So, in the parenthesis, pay attention to this point as well. This is certainly forbidden. There is no doubt about the prohibition of this act."

In the continuation of this discussion, he considered insulting and mocking ethnic dialects as Haram and believes that this is for mockery, making fun, and so on. Here, it doesn't matter if he meant that it is general, or not, for example, let's assume that he targets a certain person and imitates the accent of a person as if his accent is the accent of the public. This has different forms. All this is prohibited. However, the difference is that if his purpose is to speak to the public, this will be an insult to that population. Of course, it has its effects. For example, suppose that if he wants to perform Istihlal (to make something Halaal), he must perform Istihlal from each of these. Where there is one person, it is Istihlal from one person. This discussion is about finding fault... sometimes imitation of an accent is not meant as mockery... this is out of the discussion. Where the intention is to mock, it becomes Prohibited".

The Supreme Council of the Cultural Revolution, in the 461st meeting on 2000/04/25, on the proposal of the Art Council, Note 1, Article 3 of the performing arts policies, "approved on 2000/02/15, established the rules for monitoring shows and issuing licenses as follows:

According to Clause 8, Article 3 of this resolution, the performance of any show in all theaters is free, and the show license will be obtained if it refrains from spreading racism and negating the equality of human beings, especially mocking Iranian clans and ethnic groups, and if one of these cases is witnessed, it will not be allowed to be displayed.

The Fourth Development Program in Article 100 obliges the government to promote human rights, establish areas of growth and excellence and a sense of personal and social security in the society, etc., and citizen rights based on axes such as the promotion of unifying and respectful concepts towards different social and ethnic groups in the national culture and get it approved by the relevant authorities.

Clause 5 of the resolution (Monitoring the showing of films, slides, and videos and issuing a license to show them) mentions one of the cases of not issuing a film license to be "denying the equality of people of any color, race, language, and ethnicity and denying the standard of superiority that is piety and inciting discord racial and ethnic or mocking and making fun of them", which is especially remarkable.

The Board of Ministers regulates affairs and information activities and develops internet access services in the country, to organize (registration, support, and monitoring) the activities of Iranian internet databases in the country and take into account social rights and protection of Islamic, national, cultural and social

values of the country, approved the regulations for organizing the activity of databases of Iranian internet sites, which in its third chapter and in clauses c, e, and f, which deal with violations and how to deal with Internet websites, and in clause f, prohibits Insulting ethnic groups and religious minorities.

### **Freedom of Belief and Religion**

Article 12 of the Constitution states: "Other Islamic schools of thought, such as Hanafī, Shafei, Maliki, Hanbali, and Zaidi, have full respect and the followers of these schools are free to perform religious ceremonies according to their jurisprudence, and in their religious education and personal status (Marriage, Divorce, Inheritance, Will) and related lawsuits are recognized in the courts, and in any region where the followers of any of these religions are the majority, the local regulations within the limits of the authority of the councils will be according to the laws of that religion while preserving the rights of the followers of other religions.

Article 13 of the Constitution also recognizes this right for other religious minorities. "Zoroastrian, Kilimian, and Christian Iranians are known as the only religious minorities who are free to perform their religious ceremonies within the limits of the law and act according to their religion in their personal affairs and religious teachings. Of course, there are other minorities in Iran, such as Sabians and Bahais, who practice their religious practices in their private domain, and the government does not attack them.

The most important international regulation to protect the right to freedom of religious minorities in Article 18 of the International Covenant on Civil and Political Rights, which entered into force on March 23, 1976. This article asserts:

1. Everyone should have the right to freedom of thought, conscience, and religion. This right includes the freedom to have or adopt a religion of one's own choice and the freedom to express one's belief or religion in worship, practicing the duties and teaching of that religion or belief, either individually or in society with others and public and private.
2. 2- No one should be subjected to coercion that harms his freedom to have or adopt a religion of his choice;
3. 3- The freedom to express one's religion or beliefs can only be subject to those restrictions that are prescribed by law and are necessary to protect the health, order, public health or morals, or the fundamental rights and freedoms of others.
4. 4- The member states of this covenant undertake to respect the freedom of parents and, as the case may be, the freedom of legal guardians of children to ensure the religious and moral education of their children are in accordance with their beliefs.

According to Article 2 of the Covenant, member states have committed to respecting the rights recognized in Article 18 for all people within their jurisdiction and to guarantee those rights to them regardless of their religion. It should also be noted that Article 27 stipulates that people who are part of the



religious minorities of a country cannot be banned from the right to express their religion and practice their religious teachings in society (Radan, 2011, p. 1).

On the other hand, both the text and the date of the drafting of the covenant in question show that the efforts of the drafters were to reach a consensus regarding the "right to change religion" and this is not done but by keeping the issue of changing religion silent as a manifestation. It has not been possible based on the right to freedom of religion, because in some Islamic countries such as Saudi Arabia, legitimizing the possibility of changing one's religion under the title of the right to freedom of religion is considered a form of aggression against Islam. Does this mean that in the field of international human rights, there is no binding norm that includes the right to freedom to change religion?

It is not much of an easy task to answer this question. Some believe that the right to choose and the right to change religion are both sides of the coin of freedom of religion. Therefore, the Human Rights Committee believes that the necessary result of the provision of the right to choose one's religion in Article 18 of the International Covenant on Civil and Political Rights is the right to change one's religion or belief. In addition, some of the compilers of the covenant believed that the provision of the right to choose a religion without accepting the right to change religion was not an important issue that has the value of legal recognition and the ability to be mentioned in an internationally binding document. Egypt, which was somehow in favor of removing the right to change clause in the draft of Article 18 of the Covenant, justified its opinion that the provision of the right to choose the desired religion in Article 18 of the Covenant implicitly covers the right to change, so the Covenant, by clarifying such an issue, should not encourage disbelief and apostasy or in any way cast doubt on religion in the minds of believers (Ghari Seyed Fatemi, 2009, p. 89).

Nevertheless, it can be claimed that Article 18 of the Covenant represents a principle of customary international law. First, Clause 2 of Article 4 of the International Covenant on Civil and Political Rights does not allow the suspension of rights arising from Article 18. Second, the states that are members of the Covenant on Civil and Political Rights have not applied conditional rights to Article 18 of the Covenant. Third, many governments have legal regulations related to the right to religious freedom. Many countries have these regulations in their basic laws. Fourth, all domestic human rights treaties have provisions that guarantee the right to religious freedom. These domestic treaties cover most of the world's governments, except Asian governments. Finally, the right mentioned in Article 18, as its closest precedent, has Article 18 of the Universal Declaration of Human Rights, which is widely accepted as a document that expresses the principles of customary international law. When we consider all these factors, it can be said that the right to freedom of religion, which is specified in Article 18 of the International Civil and Political Covenant, and "Nowak" considers it the core and center of the covenant, is a part of customary international law and thus, it is binding for all governments, regardless of whether they have signed and ratified the covenant or not (Radan, 2015, p. 2).

In addition to the Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, Part "a" of Clause 1 of Convention No. 111 based

on religion or belief (1981), and the Declaration on the Elimination of All Intolerance and Discrimination Based on Religion or Belief dated November 25, 1981, which was enacted due to the expansion of dimensions of religious discrimination and legal inequality, by the United Nations General Assembly on this date, and other existing documents, the right to freedom of opinion and the prohibition of discrimination based on opinion are recognized. In addition, the right to freedom of opinion is guaranteed in regional documents such as Article 9 of the European Convention on Human Rights, Article 12 of the American Convention on Human Rights, Article 8 of the African Charter on Human Rights and Nations, etc. Also, in the Charter of Rights and Freedoms of Canada, one of the four clauses of the fundamental freedoms (the second principle) is for every Canadian citizen (Tahmasbipour, 2011, 205-206).

Of course, it should be noted that the right to freedom of opinion (Ardeshiri Lajimi, 2002, vol. 2, 281) is absolute in its internal dimension and has no restrictions or limitations, and everyone has the right to have any opinion that they want. And basically, this dimension of the right to freedom of opinion is more subjective and internal and cannot be violated. However, from the external aspect, the right to freedom of opinion includes the freedom to express an opinion or to promote or propagate it. This latter dimension of the right to freedom of opinion is not absolute and has restrictions and limitations that are determined by the law, and is determined to protect the security, order, health, public morals, or the fundamental rights, and freedoms of others, if necessary.

### **Identifying the Existence and Identity of Religious Minorities**

Although Article 12 of the Constitution considers the official religion of the country to be Islam (Twelver), Article 13 introduces the official religious minorities of the country first and states that they are free to perform their religious ceremonies within the limits of the law and in their personal and educational conditions. They act according to their religion. Anyway, it seems that in this section, four major rights are considered for religious minorities in our country:

#### **Freedom to Perform Religious Ceremonies**

Article 13 of the Constitution stipulates the freedom to perform religious ceremonies, and in practice, the followers of these three religions hold their religious ceremonies and rituals by having numerous churches and fire temples.

#### **Forming an Association**

According to Article 26 of the Constitution, religious minorities can have associations and communities based on the rules.

#### **Implementation of Religious Regulations in Personal Affairs**

Personal affairs are marriage, divorce, inheritance, and will. In these cases, religious minorities follow the regulations of their religions, and even if there is a dispute and issue in Iran's courts, the judge of the court settles the matter according to their religious rules.

### **The Right to Having a Parliamentarian**

According to Article 64, Zoroastrians and Kilimians elect one representative each, Christians, Assyrians and Chaldeans elect one representative, and Armenian Christians from the south and north elect one representative each.

### **Conclusion**

The honor of religious minorities In Islamic Law has been introduced under the title of inherent dignity. Thus, any words and expressions that clearly or degrade and belittle religious minorities, or any acts or moves that do so regarding the conventions of the society alongside the time and place requirements, and position (respect) of the religious minorities, are rejected by the Islamic and Western law. The honor of religious minorities in Western Law is expressed under the title of the "rights of minorities". In general, reflecting on Islamic and Western law, it can be said that both legal systems obligate preserving and defending the rights of religious minorities due to the peaceful principles and effects they have. Based on the principles mentioned, both legal systems have provided strategies for defending the honor of religious minorities which can be used by the governments in the present era to defend the honor of religious minorities and thus, preserve their honor.

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### Footnotes

Page 8:

1. *"Each State Party to the present Covenant undertakes to respect and to 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, sex, language, religion, political or another opinion, national or social origin, property, birth or another status"* (Clause 1 of Article 2 of the Covenant on Civil and Political Rights).

2. *"Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant"* (Clause 1 of Article 2 of the Covenant on Civil and Political Rights).

*In the translation of this term, "monopoly" is sometimes also mentioned, but according to some researchers in the field of supporting minorities, considering the negative aspect of discrimination against minorities, it is better to use "deprivation" in the translation, which is more useful in the conceptual framework of discrimination. (Fazaeli, Karami, 2016, 109).*

Page 10:

Nasser Katouzian, speech on December 25, 2005, quoted from [www.Etemademelli.com](http://www.Etemademelli.com)

Page 11:

3. *In the introduction of the Constitution of the Islamic Republic of Iran, it is stated: "The Constitution of the Islamic Republic of Iran shows the cultural, social, political and economic institutions of the Iranian society based on Islamic principles and regulations, which reflect the heartfelt desire of the Islamic Ummah... Our nation, in its revolutionary evolution process, removed the dust and rust of the tyranny from it, cleansed itself of foreign intellectual provisions, and returned to the original*

*Islamic intellectual positions and ideology, and now it is determined to build its exemplary society with Islamic standards on such a foundation. The mission of the constitution is to objectify the religious grounds of the movement and create conditions in which human beings are raised with high and universal Islamic values.*

*4. Introduction and articles 5 and 157 of the Constitution.*

*Page 13:*

*1. Belief and faith are matters of the heart in which reluctance and coercion have no way because the effectiveness of coercion is only apparent (Tabatabaei, 1417 AH, vol. 1, p. 244).*

*2. Article 22: Propaganda is a vital necessity for society and its misuse and abuse and attack on the sanctity and dignity of prophets or using anything that leads to disruption of values or dispersal of society or language or disintegration of belief is prohibited.*

*Page 15:*

*1. This resolution was approved by the Council of Ministers in the session of 1983/02/23.*

*2. This resolution was approved by the Board of Ministers in the meeting of 2006/08/20 based on the 138th article of the Constitution of the Islamic Republic of Iran and according to the resolutions of the meeting Nos. (482) to (486) and (488) of the Supreme Council of Cultural Revolution.*

*Page 16:*

*1. The provisions of clauses 1 to 3 of article 18 are expressed in the same terms in article 1 of the declaration of the United Nations General Assembly regarding the elimination of all forms of intolerance and discrimination based on religion or belief. The content of Clause 4 of Article 18 of the covenant is stated in Clause 1 of Article 5 of that declaration.*

*2. Of course, such a point of view is in accordance with the point of view and approach that governs this research, which has been specified with various expressions and arguments during this research and is not unique to a particular Islamic country. Rather, it includes all Islamic countries.*

*3. It is noteworthy that: "human rights themselves are not compatible with each other. i.e., the fulfillment of some of them is a violation of others. For example, if a religious group prohibits its members from changing their religion based on their religious beliefs, then the religious freedom of that group is opposed to the religious freedom of any member of that group who wants to change. If we want to support such incoherent human rights, we are confused" (Freeman, 1387, p. 6).*

*Page 17:*

*1. Everyone has the right to benefit from freedom of thought, conscience, and religion. This right includes the freedom to change one's religion based on one's opinion, as well as the freedom to express one's opinion and faith, and it also includes religious teachings and the practice of religious ceremonies. Everyone can enjoy these rights individually or collectively, privately or publicly.*

*2. Wherever belief is mentioned next to religion, this is to prevent misinterpretation or misunderstanding by commentators and jurists because belief is more common*

than religion. In this regard, the detailed views of contemporary writers can also be used (Jafari Tabar, 2009, 105-183).

3. Article 1 of the Declaration on Elimination of Discrimination and Intolerance Based on Religion or Belief stipulates that freedom of religion "must include the freedom to enjoy a religion with any belief or choice." The representatives of the Islamic states in the relevant negotiations clearly stated that this article does not in any way grant the right to change religion. Therefore, a person who becomes a Muslim and becomes attached to the Islamic community is not allowed to cut this link, because leaving the religion of Islam and founding a sectarian religious movement is a great sin and at the same time a crime (Christian, 2002, 176-177).