

REDEFINING PROTECTION: CHALLENGES AND SOLUTIONS IN SAFEGUARDING RELIGIOUS MINORITIES WITHIN INTERNATIONAL AND REGIONAL LEGAL FRAMEWORKS

SANH SHAREEF QADER¹

Abstract: This paper examines the challenges in defining and safeguarding religious minorities within international and regional legal frameworks. It explores the main research question of how existing legal instruments and definitions impact the protection of religious minorities and aims to propose recommendations for improving these protections. Through a literature review and critical analysis of international and regional legal frameworks, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and various regional instruments, the paper identifies significant gaps and inconsistencies in current protections. Key issues highlighted include the lack of a universally accepted definition of religious minorities, the limitations of international and regional instruments, and the varying interpretations of religious rights by bodies such as the European Court of Human Rights. The paper concludes with recommendations for clearer definitions, more robust legal provisions, and enhanced international and regional cooperation to better safeguard the rights of religious minorities. The findings emphasize the need for more effective approaches to protecting religious diversity and ensuring proper representation.

Keywords: Religious minorities, International Law, Regional Frameworks, Legal Definitions, Protection Mechanisms.

1. INTRODUCTION

This paper explores the challenges involved in defining and protecting religious minorities within the framework of international and regional legal systems. The primary research question focuses on how these legal instruments can more effectively meet the needs and rights of religious minorities, ensuring their protection and representation in various socio-political contexts. The objective is to provide an analysis of the existing legal instruments, identify their strengths and shortcomings, and propose actionable recommendations to improve the safeguards for religious minorities. The importance of this study is underscored by the persistent and widespread discrimination, persecution, and marginalization faced by religious minorities worldwide. Despite numerous international treaties and conventions aimed at promoting human rights and religious freedom, significant gaps remain in the protection afforded to these vulnerable groups. The lack of a universally accepted definition of religious minorities complicates efforts to implement consistent and effective protections. This ambiguity often leads to varied interpretations and applications of legal safeguards, resulting in inconsistent protection and support for religious minorities. Through an extensive literature review, this paper reveals

¹ Department of Law, Faculty of law, Political Sciences and Management, Soran University, Kurdistan Region, Iraq. E-mail: sanh.qadir@soran.edu.iq

substantial gaps and debates within existing research, highlighting the need for more effective approaches to the issue. The analysis of international instruments, such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the European Court of Human Rights' (ECtHR) approach to religious freedom, highlights both their foundational strengths and notable limitations. Additionally, regional frameworks like the Framework Convention for the Protection of National Minorities (FCNM), the European Charter for Regional or Minority Languages (ECRML), and the African Charter on Human and Peoples' Rights are critically examined to assess their effectiveness in safeguarding the rights of religious minorities. This study not only identifies the legal and practical challenges faced by religious minorities but also explores the specific needs that distinguish them from other minority groups. Ultimately, this study seeks to promote a deeper understanding of the issues surrounding religious minority rights and to advocate for stronger, more effective legal protections to ensure their dignity, freedom, and security in a diverse world.

2. RESEARCH METHODOLOGY

This study employs a multi-faceted research methodology to analyze and evaluate international and regional instruments for safeguarding religious minorities. The study process involves a systematic review of scholarly literature, legal documents, case law, and reports from reputable international organizations, academic journals, and legal databases. Additionally, qualitative methods such as thematic analysis and critical discourse analysis are utilized to identify key themes, trends, and critiques within the literature. Furthermore, comparative analysis is employed to assess the effectiveness and limitations of various legal frameworks in protecting religious minority rights. Through this rigorous methodology, the paper aims to provide a detailed understanding of the challenges surrounding the definition and protection of religious minorities, offering valuable insights and recommendations for enhancing minority rights protections at both international and regional levels.

3. LITERATURE REVIEW

Conducting a literature review on protecting religious minorities under international and regional instruments is important to present new insights on this subject, distinct from previous studies. The purpose of this review is to examine existing research on the safeguarding of religious minorities under these frameworks. It identifies gaps, critiques, and insights from various scholars, highlighting diverse perspectives on the challenges faced by religious minorities. Ultimately, the goal is to pave the way for critical analysis in the paper, urging the strengthening of the position of religious minorities within international and regional instruments to enhance societal stability in countries.

In his 2012 research, Al-Tayyib compared the guarantees of religious minorities' rights in Islamic law and international law. He posited that the "principle of equality" underscores the equality of individuals in law application without discrimination, ensuring legal parity among those with similar legal status. The researcher emphasized that religious affiliation shouldn't influence law implementation or rights enjoyment. Put

simply, there's no regard for religious affiliation in international, regional, or national laws; religious minorities share equal rights as others. The equal protection before the law underscores "without discrimination in the application of the law" (Al-Tayyib, 2012). Building upon Al-Tayyib's research, one innovative approach could involve the creation of an international body tasked with monitoring and enforcing the rights of religious minorities, which is the focus of our present study. Similar to existing human rights organizations, this entity would oversee adherence to the principle of equality across various legal systems worldwide. For example, it could review national laws and policies to ensure they uphold the equal treatment of religious minorities and intervene in cases of discrimination or rights violations. This would provide a unified framework for protecting religious minority rights on a global scale, promoting greater consistency and accountability in their legal treatment across different countries and regions.

Castellino and Thomas in their paper delve into the intricate socio-political landscape of Europe, particularly focusing on the challenges and opportunities presented by religious diversity and minority rights. It examines the historical narratives surrounding Europe's identity formation, highlighting the need to correct misconceptions and embrace the continent's multi-religious reality. Additionally, the paper explores the re-articulation of European values in contemporary society, emphasizing the importance of inclusivity and social cohesion. Throughout the analysis, the authors emphasize the urgency of protecting religious minority rights as a fundamental aspect of societal progress. It discusses the pervasive impact of hate speech and the role of legal frameworks in combating discrimination while upholding freedom of expression. Moreover, the authors address the relationship between church and state, advocating for neutrality in the public square and the implementation of measures to ensure access to rights without discrimination. The authors therefore emphasize the need to address the challenges posed by religious diversity, stressing the importance of historical accuracy, redefined European values, robust legal protections, and inclusive societal frameworks. It highlights the potential for Europe's diverse communities to contribute to a sustainable future, provided that inclusivity and equality are upheld as fundamental principles (Castellino & Thomas, 2021). However, an institution called a "European-wide task force" could be established dedicated to promoting interfaith dialogue and cooperation. This task force would bring together representatives from various religious communities, government agencies, and civil society organizations to foster understanding, tolerance, and collaboration among different faith groups. By facilitating regular meetings, workshops, and educational programs, this initiative would aim to bridge divides, dispel stereotypes, and promote mutual respect among Europe's diverse religious communities. In addition, the task force could work closely with legal experts to develop guidelines and best practices for combating religious discrimination and hate speech while safeguarding freedom of expression.

In her 2018 article on minority political rights, Fatima argues that international instruments advocate for equality between minority and majority members in political rights. However, she contends that the corresponding legal texts lack sufficient guarantees for implementation. She highlights the ongoing challenge: to what extent do countries activate these legal texts? Some international documents avoid using the term "minority" and only address various forms of discrimination, like Article 5 of the

International Convention on the Elimination of All Forms of Racial Discrimination. This article forbids the use of color, language, or national origin to impede access to public jobs. Fatima suggests that minorities could still face exclusion due to religious differences. She proposes the inclusion of a dedicated article in the convention to address this issue (Fatima, 2018). However, Fatima's study captures a critique of international instruments on minority political rights, emphasizing the gap between theoretical equality and practical implementation challenges. It delves into specific issues highlighted in Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and acknowledges the need for a dedicated article to address potential exclusions based on religious differences. The summary applauds the concise and insightful nature of the review, recognizing it as a strong foundation for further exploration in the paper.

On the other hand, Bielefeldt in the study regarding Freedom of Religion or Belief as a Human Right, explores the challenges encountered by religious minorities within the context of Freedom of religion or belief (FoRB). They emphasize the imperative of protecting the rights of religious minorities as an integral component of FoRB. It is underscored that FoRB must not inadvertently privilege majority or conservative religious positions to the detriment of minority or non-traditional beliefs. Rather, FoRB should serve as a bulwark defending the rights of all individuals, including those belonging to religious minorities, enabling them to freely practice their faith or belief devoid of fear or discrimination. Furthermore, discussions in academic circles have highlighted the intersecting vulnerabilities faced by religious minorities, necessitating a comprehensive human rights framework that addresses these multifaceted concerns. This includes considerations of how the rights of religious minorities intersect with broader human rights issues such as gender equality, non-discrimination, and the preservation of cultural heritage (Bielefeldt et al, 2022). However, Bielefeldt's study underscores the critical importance of protecting the rights of religious minorities within the broader context of FoRB and human rights discourse. It advocates for approaches that uphold the fundamental principle of freedom of religion or belief while recognizing and respecting the diverse religious beliefs and identities of all individuals worldwide. This study therefore provides an understanding of the challenges faced by religious minorities within the context of FoRB, highlighting the need for robust protections to safeguard their rights, which is supportive of our study.

Unlike the aforementioned researchers, Jamal explores novel rights for minorities in international human rights law, notably the prohibition of discrimination. He underscores the significance of the "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities of 1992". However, he criticizes the declaration for lacking implementation mechanisms, whether on an international scale through committees, councils, or courts in disputes, or on a national level through special courts. Jamal notes the absence of provisions for incorporating the declaration's texts into national law for enforceability. He identifies shortcomings such as ambiguous phrases like "provided that this contribution is made in a manner not inconsistent with national law." Furthermore, he highlights the lack of proposed measures for ensuring implementation, follow-up, and effective control means for enforcing the rights outlined

in the Declaration (Jamal, 2016). Similarly, in her article, Fawzia emphasizes that constructing a comprehensive system to protect minorities is challenging, as it relies on the will of states and governments. This is why neither human rights conventions nor minority conventions could offer effective protection for their rights, particularly cultural rights. Fawzia argues that some countries have adopted policies to empower cultural minorities with these rights, while others still violate and do not acknowledge the rights of their cultural minorities under the pretext of maintaining cultural equality and public order stability. Consequently, she concludes that there is no collective international agreement that comprehensively covers minority rights, but there are significant agreements that provide minority members the opportunity to express and preserve their cultural, religious, and linguistic characteristics (Fawzia, 2018). However, these studies, though focusing on the protection of minorities, fall short in specifically focusing on religious minorities. Critics might argue that by not honing in on the challenges faced by religious minorities, these studies might overlook distinct issues related to religious discrimination, freedom of worship, and cultural practices specific to religious communities. The broad emphasis on minority rights, in general, could potentially neglect the targeted measures necessary for safeguarding the rights of religious minorities, who may face forms of persecution or restrictions based on their beliefs. For example, according to a report by the Universal Periodic Review, religious minorities such as Ahmadis, Christians, and Hindus in Pakistan face social, political, cultural, educational, and employment discrimination by the Muslim majority in power (Universal Periodic Cycle, 29th session, 2023). As a result, there could be a need for the current research that delves specifically into the protection of religious minorities under international and regional instruments to provide a more precise understanding of their challenges and rights.

In contrast to the above, Sundararajan discusses the protection of religious minorities at the international level. He states that the entitlement to practice religion as a personal entitlement is stipulated in Human Rights Law and the International Covenant on Civil and Political Rights (ICCPR). Conversely, it is conceptualized as a collective right in the International Court of Justice (ICJ) and the International Criminal Court (ICC). He argues that the jurisdiction of international courts is restricted only when religious freedom is threatened within the framework of armed conflict or hostilities. The author further contends that a religious right must be defined by a community, not merely granted to an individual to participate in a political process. He concludes that the safeguarding of religious minorities' rights within the framework of international law is insufficient, reflecting the inherent weakness of international law (Sundararajan, 2017). In their study, Bothwell and Peirson support Sundararajan by arguing that the current persecution of religious minorities from Malaysia to the Middle East attests to the general failure of international courts to protect the religious freedom of minorities. They considered it a significant critique of the true responsibility of international courts. Both authors suggest that the international judiciary must play an effective role at both international and regional levels to prevent violations of the religious minorities' rights, emphasizing that these individuals are civilians, not fighters, and their families need protection (Bothwell and Peirson, 2019). This dual perspective highlights the urgency of addressing the limitations of current international courts in safeguarding the rights of religious minorities, which will be discussed further in the following sections. Together, these studies advocate for

resilient international courts that are responsive to the challenges faced by religious minorities globally.

In opposed to Sundararajan, Patrick Thornberry, a renowned expert on international law and minority rights, emphasizes the importance of Article 27 of the (ICCPR), which provides that persons belonging to ethnic, religious, or linguistic minorities shall not be denied the right to profess and practice their own religion in community with others. This provision extends to affirmative action and special measures for a limited period, with the aim of bringing the minority into the same position within the society as the majority. Thornberry further goes by highlighting that the Human Rights Committee interprets Article 27 to extend to non-citizens and even to “visitors,” emphasizing its individual nature with a group element. He also notes the Committee’s consistent view that Article 26, which guarantees equal protection of the laws, does not prohibit all differences in treatment, but only those based on unreasonable and discriminatory criteria (Cited from Wilson, 2002). However, the Thornberry’s work underlines the significance of international law in protecting the rights of religious minorities and the importance of affirmative action and equal protection in ensuring their full participation in society.

Sealy’s study examines the management of religious diversity in Europe, focusing on regions with distinct confessional-institutional legacies: majority Catholic, Protestant, and Orthodox areas. Using a comparative approach, the study explores similarities and differences in how religious diversity is negotiated, considering factors such as historical inheritance, state-religion connections, and the influence of dominant churches. By analyzing these aspects, the study sheds light on the inclusion and exclusion faced by minority faiths within contemporary European nation-states. It raises questions about the future trajectory of religious diversity in Europe, probing evolving societal norms, political changes, and the role of religion in the public sphere. Key questions emerge regarding shifting alliances among state, religion, and society. Furthermore, the study investigates whether the future landscape will be characterized by religious division or by a division between Christianity and secular Enlightenment ideals. Another part of the study emphasizes that religion should not play a role in public institutions, noting that the presence of politically extremist or socially conservative groups can disrupt national peace and security. At the same time, the study acknowledges the challenges faced by Muslim minorities in European countries due to political Islam and stresses the need to distinguish these minorities from political Islam (Sealy et al., 2021). The study offers valuable insights into the management of religious diversity in Europe and highlights the need for further research into this complex issue. It suggests that the diversity of religious minorities can cause instability for political, social, and economic reasons, requiring international attention and special focus.

Berry’s examination of the European international frameworks regarding the protection of religious minority rights, as outlined in his paper, illuminates contrasting approaches employed by key entities such as the Advisory Committee (AC) of the Framework Convention for the Protection of National Minorities (FCNM), the European Court of Human Rights (ECtHR), and the United Nations Human Rights Committee (HRC). By focusing on the freedom to express religious beliefs, Berry highlights the

disparities in methodologies utilized by these entities. Berry underscores the ECtHR's tendency to grant broad discretion to European states, particularly evident in planning permission cases, which could potentially undermine the rights of religious minorities. This contrasts starkly with the AC's approach, which prioritizes dialogue, compromise, and awareness to safeguard religious attire rights. The comparison further reveals the ECtHR's inclination to afford wide latitude to European states in imposing limitations on freedom of religion, whereas the AC and HRC maintain more restrictive stances. Importantly, Berry argues that the ECtHR's approach risks perpetuating prejudice and hindering effective protection of minority rights, especially concerning religious expression. However, he suggests that by amalgamating these approaches, there's an opportunity to enhance the protection of religious minority rights while addressing concerns about potential prejudice and limitations on freedom of religion among European states (Berry, 2012).

In a similar vein, Ghana's study explores the marginalization of religious minorities within the minority rights regime, highlighting the detrimental effects of their exclusion. Through an analysis of international human rights law and the jurisprudence of the UN Human Rights Committee, the study identifies key challenges in reintegrating religious minorities into the minority rights regime. These challenges include navigating state-religion relationships, recognizing religious minorities, considering religious leadership, and addressing the implications of religious laws. Despite these challenges, Ghana's study advocates for recognizing the needs and rights of religious minorities within the broader human rights framework. By encouraging further debate and consideration of religious minorities, the study contributes to the ongoing discourse on minority rights and freedom of religion or belief (Ghanea, 2012). Both studies underscore the need to protect the rights of religious minorities and suggest that their specific characteristics must receive stronger attention within the international human rights framework, which will be further examined in our study.

Importantly, Ruiz Vieytez provides a new comprehensive examination of the legal instruments published in 2024 and aimed at protecting religious diversity, highlighting inconsistencies and challenges within existing frameworks. The study aligns international law and comparative constitutional law in recognizing the importance of safeguarding fundamental rights impacted by religion. However, inconsistencies arise in how these rights are interpreted and implemented across different legal systems, leading to gaps and overlaps in protection. While freedom of religion and the right to freedom from discrimination are widely covered, the rights of religious minorities receive less consistent attention. Vieytez suggests a need for a paradigm shift towards integrating the protection of diversity within existing fundamental rights frameworks, rather than creating separate rights for religious minorities. This holistic approach emphasizes the importance of recognizing religion as an essential aspect of human dignity, embedded within broader human rights principles (Ruiz Vieytez, 2024). However, from the findings of Ruiz Vietez's study, it becomes clear that reshaping the discourse around the preservation of religious diversity is a current need. This seems to emerge from a novel approach, which advocates the integration of diversity into existing human rights frameworks rather than the creation of separate rights for religious minorities. This shift towards a more inclusive paradigm not only recognizes the intrinsic link between religion and human dignity but also fosters

a deeper commitment to uphold fundamental rights for all individuals and religious groups. This study can be a good testimony to our research that religious minorities are not adequately protected on the international stage.

After critically reviewing prior research on the safeguarding of religious minorities' rights in international law, it becomes evident that this literature was essential and, despite its variations, cannot be disregarded in our study. The literature review encompasses diverse perspectives on the protection of religious minorities' rights. One perspective emphasizes non-discrimination based on religious affiliation, while another underscores deficiencies in implementing international instruments advocating for minority political rights. Another discussion delves into new rights for minorities, critiquing the lack of implementation mechanisms. There are also notes on challenges in building a system for minority protection and the absence of a collective international agreement. A critical examination of the safeguarding of religious minorities at the international level argues for a communal definition of religious rights. Supporting this critique, another perspective urges a reassessment of the role of international courts. Together, these perspectives reveal a complex landscape, emphasizing the theoretical gaps and practical challenges in safeguarding religious minorities' rights, ultimately paving the way for a focused exploration of this crucial topic in the ensuing research.

4. CHALLENGES AND PERSPECTIVES IN DEFINING RELIGIOUS MINORITIES

The definition of religious minorities is a contentious issue within academic discourse, shaped by legal, political, and social contexts. Scholars from various disciplines offer diverse perspectives, each highlighting different dimensions and implications of defining religious minority identities. Religious minorities require additional protection compared to other groups due to their vulnerability to persecution, violence, and discrimination based on their beliefs. Protecting religious minorities ensures the preservation of diverse cultural heritages and upholds international human rights obligations, such as those outlined in the Universal Declaration of Human Rights. Moreover, safeguarding these groups fosters social cohesion and stability by promoting inclusive societies where diversity is respected, reducing the potential for conflict, and supporting peaceful coexistence. In contemporary contexts, with rising instances of religious intolerance and extremism, these protections are crucial for allowing individuals to practice their beliefs without fear. Therefore, this section revolves around these factors and challenges.

Legal scholars such as T. Jeremy Gunn and Elizabeth Shakman Hurd advocate for expansive legal frameworks that extend beyond numerical criteria. Gunn emphasizes the need for legal definitions to incorporate cultural distinctiveness and vulnerability to persecution, arguing for a robust rights-based approach to protect minority communities (Gunn, 2020). Similarly, Hurd explores how international legal norms can navigate the complexities of religious pluralism within secular states, suggesting that legal definitions should reflect evolving social realities (Hurd, 2015). In contrast, sociologists Brian J. Grim and Roger Finke focus on demographic trends to understand the numerical composition of religious minorities and their implications for social cohesion. They argue that demographic analyses are essential for assessing the societal impact and resilience of minority communities

(Grim & Finke, 2011). However, this quantitative approach may oversimplify the diverse cultural and political dynamics that shape minority identities, potentially overlooking the lived experiences and qualitative dimensions of religious diversity.

Anthropologist Talal Asad challenges essentialist categorizations of religious minorities by emphasizing contextual understandings of cultural practices and identities. Asad critiques static definitions that fail to account for historical and political contingencies, advocating for an approach that recognizes the agency and complexities of minority communities (Asad, 2003). This perspective contrasts with legal scholars like Gunn, who prioritize legal protections and formal recognition in defining minority rights. However, Bishara examines how state policies shape the rights and status of religious minorities, highlighting variations in state approaches across different contexts. Bishara's comparative analyses emphasize the role of political dynamics in shaping minority rights protections, suggesting that governance structures significantly influence minority experiences (Bishara, 2021). This political perspective complements legal and sociological analyses by illustrating how state interventions can either enhance or undermine minority rights frameworks.

Although the term religious minorities is used to describe smaller and numerically non-dominant religious groups within a nation-state, scholars have argued that this definition is not always straightforward and can be influenced by various factors such as power dynamics, recognition by society, and the context in which the term is used. One of the key points made by scholars is that the meaning of "religious minorities" is relational, contextual, and situational. This means that the term only makes sense by contrasting it with or distinguishing it from an assumed majority. For instance, a group may be considered a minority in one context but not in another, depending on the specific choices made by actors based on their interests, necessities, and opportunities (Stausberg, Van Der Haven, & Baffelli, 2023). This raises questions about the validity and consistency of using the term "religious minorities" as a universal concept.

The intersectionality of religious minorities is also significant. Many religious minorities also belong to other categories such as ethnic, language, national, or racial minorities, which can complicate their legal protections and social status. While scholars have highlighted the importance of recognizing these intersections, some argue that this approach can lead to further marginalization and stereotyping of certain groups. For example, in Syria, both Sunnis and Christians are non-dominant, but only Christians fit the definition of a religious minority under international human rights law. This raises questions about the inclusivity and fairness of such legal frameworks. On the other hand, the recognition of religious minorities can also be influenced by the state's relationship with religion. In some cases, the state religion or ideology can dominate and influence the power dynamics, making it challenging to determine who constitutes a religious minority. For instance, in countries where the state religion is closely tied to the government, it may be difficult to identify a dominant religious group. Furthermore, the term "religious minorities" is often used in political and social contexts to celebrate diversity and pluralism. However, it can also be used to create dichotomies and stereotypes, such as "good" and "bad" minorities, which can lead to homogenizing representations and marginalization of

certain groups (Ghanea, 2012). These arguments have been used to criticize the notion of religious minorities as a universal concept, as they highlight the importance of considering the specific political and social contexts in which these groups operate. At the same time, they have been used to criticize the use of the term as a tool for political and social manipulation, rather than a genuine attempt to understand and address the challenges faced by religious minorities.

More importantly, the definition of religious minorities is a complex issue within the realm of legal scholarship, which has significant implications for the protection and recognition of these groups under international legal instruments. Legal scholars, therefore, approach the issue from different angles, highlighting both the strengths and limitations of existing legal frameworks. Bielefeldt and his co-authors discuss the international legal framework surrounding freedom of religion or belief, including the provisions of the International Covenant on Civil and Political Rights (ICCPR), which we will discuss further in the following sections. They critique the vague language often found in these legal instruments, highlighting how it can lead to inconsistent application and enforcement of protections for religious minorities (Bielefeldt, Ghanea-Hercock, & Wiener, 2016). This critique extends to examining the challenges posed by the ambiguity of international legal definitions, emphasizing that such vagueness leads to inconsistent application and enforcement across jurisdictions. This lack of specificity often fails to address the specific needs of religious minorities, including the recognition of their religious practices, protection from discrimination and persecution, and the safeguarding of their cultural, educational, and socio-economic rights. This ambiguity can result in ineffective legal protection and the marginalization of these groups (Ferrari, 2021).

Bielefeldt's critique and that of his co-authors, while valid, may be seen as somewhat idealistic. The push for highly specific definitions in international law risks overlooking the pragmatic necessity for flexibility to accommodate diverse national contexts. Furthermore, Bielefeldt and his co-authors' analysis does not fully account for the political challenges inherent in achieving consensus on more detailed definitions at the international level. Additionally, practical questions arise: How can international law, which must be broadly applicable, cater to the specificities of diverse religious practices and identities? This analysis, though theoretically sound, may be critiqued for not sufficiently considering the operational difficulties and unintended consequences of implementing such specific definitions on a global scale.

Another researcher defined religious minorities as a type of minority in general, distinguished from the majority based on religious beliefs, whether it is a heavenly religion such as Islam, Christianity, or Judaism, or a non-heavenly religion such as Buddhism. Examples of such minorities include Muslims in India or Christians in Iraq. He emphasizes that there is an opinion that if we take religion in its narrow sense, sectarian differences within a religion do not lead to the formation of minorities (Hassan, 2022). However, because the difference is based on religious beliefs, sectarian differences will also cause the formation of minorities within the country, provided that conditions such as numbers, marginalization, and characteristics such as race, beliefs, or language, and the criteria of collective or shared feelings are met.

Ahmad Wahban (2006) in his book points out that religious minorities are any ethnic group that is based on religion and distinguishes it from other ethnic groups in the same society (Wahban, 2006). However, linking ethnicity to religion may not be acceptable because one religion can encompass several ethnic groups. Problems often arise when religious differences among population groups become apparent. Sharing a religion strengthens ties between individuals of the same group as much as it distances them from groups that follow another religion. This conflict becomes even more intense when two religions have different positions on a particular issue, with one forbidding it and the other commanding it to be followed. This is especially true in societies where religion is integral to daily life. Therefore, the level of proximity or distance between groups following different religions depends on the group's attitude toward that religion. Although a particular religion does not reject its predecessors, such as Christianity not rejecting Judaism, the first religion may still lead to the emergence of a recognized religious minority (Yaqo, 2022). In addition, in multicultural societies, religion can be a secondary factor that either fosters unity or poses an obstacle to peaceful coexistence. This dynamic depends on how the authorities use religion, how the issue is regulated by law, and the extent to which society protects and expresses its religious beliefs. It has been observed that the demands of religious minorities are often limited to the construction of places of worship, the free conduct of their religious activities, and the provision of religious education for their children. To maintain societal stability, political authorities should strive to meet these demands in accordance with the law, despite their differences.

In fact, there is no legally effective definition of religious minorities. What exists is the definition of minorities in general, which was first given in 1977 by "Subcommittee on the Prevention of Discrimination and the Protection of Minorities," Francesco Capotorti, the Commission's Rapporteur, proposed an alternative definition that gained acceptance. This revised definition states that a minority refers to "a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language" (Issa & Qarish, 2022). While this definition is more widely accepted at the international level and offers a framework for defining minorities in terms of numbers, political status, civil characteristics, and collaboration as an independent minority, it is not without criticism. One concern, as Fortman noted, pertains to the numerical measure, deemed unimportant as it overlooks the potential abuse of power stemming from a high position based on collective identity. He exemplified an experience they had at a conference in Brunei, which is a country where most people are Malay and Islam is the dominant religion. They asked if there were any people from minority groups at the conference, but nobody said yes. Then they asked if there were any Chinese or Christians, and many people said yes. This made them wonder why people who fit the definition of being part of a minority group don't identify as such. The answer they found is that there's no benefit to identifying as a minority, and it could even be risky in terms of safety. He therefore concluded that, in Brunei, where most people are Malay and Muslim, Chinese citizens value their language, and Christians want to freely practice their religion. They want to preserve their culture and traditions, but their main priority is

feeling safe and secure in the country. They believe that true integration into the nation-state is the best way to achieve this (Fortman, 2011). Furthermore, Numerical criteria cannot be established to classify a group as a minority, as the mere presence of a specific or absolute entity cannot serve as a criterion for groups seeking minority recognition. Conversely, numerical criteria may be employed to safeguard the cultural attributes of a minority group. However, a small number alone does not constitute a minority, leading to the issue that numerical criteria can, on the one hand, shape the identity of a small group created by another seeking power by imposing specific characteristics within the state. On the other hand, these criteria can be used to undermine the characteristics and interests of a small group if its numbers are limited. Moreover, numerical criteria cannot dictate how participation in power administration is structured, as power shifts are driven by injustice and abuse rather than numerical considerations. Therefore, using numbers as a criterion for minority recognition is not only meaningless but also imposes a burden on the group itself, as the inadequate treatment of a minority group results not only from a lack of numbers but also from their exclusion from positions of power (Rehman, 2021, p.13-14). These studies emphasize the need for a more sophisticated approach to minority identification, including religious minorities, that considers broader socio-political contexts. This approach should go beyond numerical definitions to recognize intersectionality, self-identification, and the specific historical, cultural, economic, and political contexts of minority groups. Effective political representation is crucial, ensuring minority groups have meaningful participation in decision-making processes and supporting minority-led advocacy. Understanding minority recognition must integrate legal protections, socio-economic inclusion, cultural recognition, and social cohesion, while establishing mechanisms to monitor and enforce minority rights. By considering these factors, it can develop strategies that promote equity and inclusion for all minority groups.

Another shortcoming of Capotorti's definition, particularly the phrase "possess ethnic, religious, or linguistic characteristics differing from the majority." The word "possess" suggests that minorities have inherent differences, disregarding how they are influenced by the identity of the majority. Similarly, Article 2 of the UN Convention on Genocide also neglects this aspect, implying that certain groups exist independently, regardless of how they are defined by themselves or by those in power (Costa, 2008). For example, imagine a country where the majority of people speak Language A. There is a smaller group of people who speak Language B. According to Capotorti's definition, this smaller group could be considered a minority because they possess a linguistic characteristic (Language B) different from the majority (Language A). Historically, Language A speakers held positions of power and authority in the country. They established Language A as the dominant language through policies and cultural practices. The minority group, on the other hand, may have originally spoken Language A but were marginalized over time. As a result, they adopted Language B as a way to maintain their cultural identity and resist assimilation into the dominant group. In this example, the minority group's linguistic characteristic (Language B) is not a primordial or inherent trait; rather, it is a result of historical and social processes shaped by the dominant group's actions. The use of the word "possess" in Capotorti's definition overlooks this dynamic and suggests that minorities naturally possess distinct characteristics, which may not always be the case.

Another criticism is that Capotorti places undue emphasis on the existence of ethnic characteristics for minorities, neglecting non-ethnic minorities recognized by the state. This approach may enable states to avoid safeguarding a distinct minority and instead treat the group based on citizenship without discrimination, thus not categorizing it as a minority. This could strip minorities of their authenticity and hinder their ability to exert influence or demand power as a minority. For instance, religious minorities are often overlooked in protection policies. In some cases, states may overlook the unique challenges and vulnerabilities faced by religious minority groups, potentially denying them specific protections based on their faith. This oversight could lead to discrimination or a failure to acknowledge the specific issues encountered by religious minorities within the broader population. As an illustration, the Baha'i faith is one of the most unrecognized religions in Iran, with an estimated 300,000 followers in the country and 5 million worldwide ("Iran Arrests Nine More Members of Baha'i Faith," 2023).

However, the final definition to consider is that of Fernand de Varennes, the Special Rapporteur on Minority Issues, who introduced the Working Definition on Minorities in 2019. His report, titled "Education, Language, and the Human Rights of Minorities", offers a clear definition of what it means to be a minority. It stresses the importance of recognizing and addressing problems concerning minority rights and equality. This includes examining how minority groups might be treated differently because of their physical or cultural differences and how they might face discrimination as a group in society. He also offers several recommendations. Firstly, suggesting adopting a unified definition of minorities based on Article 27 of the ICCPR² to ensure consistent understanding and application across United Nations entities. Secondly, recommending drafting practical guidelines on minority rights and language use in education, building upon existing principles. Thirdly, he advocates for the institutionalization of regional forums to facilitate constructive dialogue on minority issues. Lastly, Varennes proposes considering the establishment of a working group to explore the potential creation of a dedicated instrument for safeguarding the human rights of minorities within the UN system, akin to existing mechanisms for other marginalized groups (UNGS, A/HRC/43/47, 2020). Although this definition is much more modern for the status and protection of minorities in general, the Rapporteur still emphasizes the need for a unified definition of minorities. This reflects the fact that the international community has not been able to issue a unified and comprehensive definition of minorities based on their characteristics.

The absence of a consensus international definition for minorities has, therefore, opened the door wide to a plurality of definitions, negatively impacting the protection of minorities, including religious minorities, as these various definitions lack binding legal force. However, it is clear from these definitions that there is an emphasis on objective

² UN General Assembly, International Covenant on Civil and Political Rights, Resolution 2200A (XXI), 16 December 1966. Article 27 states "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

criteria. This approach deals with the elements and characteristics of minorities that distinguish them from others, without necessarily referring to their position and goals in society. For example, a religious minority based on these criteria could be the Yazidis in Iraq. The Yazidis have unique cultural and religious practices that set them apart from the predominantly Muslim population. Due to historical and contemporary challenges, including social issues, the Yazidis exemplify the complexities associated with being a religious minority in certain regions (Oliaei, 2023).

In the light of the above, it is clear religious minorities face numerous challenges, including navigating ambiguous legal frameworks, overcoming demographic oversimplifications, and addressing intersectional identities. The lack of a unified international definition further complicates their protection. Scholars emphasize the need for inclusive legal protections that consider the cultural, political, and social contexts shaping minority identities. This is important for maintaining domestic and international social and political stability.

5. CRITICAL EVALUATION OF INTERNATIONAL AND REGIONAL INSTRUMENTS FOR SAFEGUARDING RELIGIOUS MINORITIES

This section delves into the intricacies of safeguarding religious minorities, critically evaluating both international and regional instruments designed for their protection. Religious minorities possess specific characteristics that distinguish their rights from those of other minority groups. Their unique vulnerability to persecution, discrimination, and violence based on their beliefs is exacerbated in societies where a dominant religion prevails, leading to systemic inequalities. The identity of religious minorities is intrinsically linked to their belief systems, which dictate their practices, values, and community structures, making their rights particularly sensitive. Protecting the rights of religious minorities is essential for preserving diverse cultural heritages and maintaining the richness of societal diversity. While their rights are often enshrined in international human rights frameworks, the effectiveness of these protections can vary significantly based on local laws and societal attitudes. Religious minorities often intersect with other minority identities, leading to compounded vulnerabilities that necessitate tailored protections. The recognition and non-recognition of their rights play a significant role in their situation, with some groups actively resisting marginalization while others conform to societal expectations (Deibert, 2023, Alves, 2008 & Stausberg, Van Der Haven, & Baffelli, 2023). By scrutinizing these frameworks, this section aims to identify challenges and propose insights for enhancing the international defense of religious minority rights, highlighting the necessity for specific protections that differ from those afforded to other minority groups, as their situation is shaped by the intersection of religious identity with broader social, cultural, and political factors.

5.1. International Instruments

As it was explained, the concept of religious minorities is complex and varies significantly across different contexts. The United Nations defines minorities as groups based on national, ethnic, cultural, religious, or linguistic identity, distinct from the majority

population (United Nations, 1992). While the United Nations' broad definition aims to be inclusive, it often leads to challenges in practical application. The lack of specificity in the United Nations' broad definition of minorities can lead to inconsistencies in how religious minorities are recognized and protected. By using a broad and inclusive definition that encompasses national, ethnic, cultural, religious, or linguistic identities, the UN aims to address a wide range of minority groups. However, this broad approach can be problematic because it lacks detailed criteria for distinguishing between different types of minorities and their unique needs. As a result, the application of the definition can vary significantly from one context to another. For instance, a country with a diverse population might interpret and apply the UN's definition differently than a country with a more homogenous population. This variability can lead to inconsistent protection and recognition of religious minorities, as legal and cultural contexts influence how these groups are treated.

A significant discourse in minority rights is the distinction between individual and collective rights. Individual rights, as enshrined in instruments like the Universal Declaration of Human Rights (UDHR), ensure the protection of individuals within any group, including religious minorities. These rights include freedom of thought, conscience, and religion (Article 18, UDHR, 1948). Article 18 encompasses the freedom to embrace or adopt a religion or belief of one's choosing, as well as the freedom to express one's religious beliefs, either alone or collectively, in public or private settings, through rituals, observances, actions, and teachings. However, collective rights focus on protecting the rights of the group as a whole, recognizing that the preservation of a group's identity often requires collective measures. Instruments like the ICCPR highlight the importance of collective rights by acknowledging the rights of minorities to enjoy their own culture, practice their own religion, and use their own language (Article 27, ICCPR; 1966). However, Article 18, alongside Article 27, can spark controversy. There are concerns about balancing freedom of expression with respect for religious beliefs. Restrictions on freedom of religion or belief (FoRB) might curb speech deemed offensive or blasphemous, potentially encroaching on freedom of expression. These limitations may not align with contemporary societal issues and challenges and could undermine broader group needs such as protecting sacred sites, maintaining traditional practices, and promoting communal language. The restrictions might also affect the group's overall identity and the ability to address collective needs effectively.

Stahnke presents a different perspective from the aforementioned analysis, suggesting a potential misunderstanding of the concept of "absolute" religious freedom. It is argued that this absolute freedom pertains solely to individuals' beliefs in their minds, rather than their actions. For instance, Stahnke interpreted Article 18 of the ICCPR as guaranteeing absolute freedom of religion, allowing individuals to choose any religion without restrictions (Stahnke, 2005). However, legal expert Arcot Krishnaswami, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1960, clarifies that while the freedom to believe in a religion is deemed absolute, the freedom to practice or act on that belief can be regulated by the government to maintain public order and safety. Thus, individuals may believe as they wish, but their actions stemming from those beliefs may be subject to reasonable regulations (Krishnaswami, 1960).

Minor's perspective not account for the balancing act required between protecting religious freedom and maintaining a stable and harmonious society. This view fails to consider the potential conflicts that can arise between individual religious freedoms and other important societal interests, such as public order, safety, and the rights of others. An absolute, unrestricted approach to religious freedom can lead to situations where individuals or groups engage in harmful or illegal practices in the name of religion, which governments would be powerless to prevent or regulate. However, Krishnaswami provides a more balanced interpretation of religious freedom, distinguishing between the internal forum (beliefs) and external forum (practices). This distinction is important because it recognizes that while individuals have the right to hold any religious beliefs they choose, the manifestation of those beliefs through practices can have consequences for society as a whole. Krishnaswami's perspective aligns with the general understanding of religious freedom as a fundamental human right that is not absolute or unlimited, and can be subject to certain restrictions prescribed by law. Therefore, Krishnaswami provides a framework that better balances individual religious freedoms with the need to maintain public order, safety, and the rights of others.

Individual rights are fundamental to the protection of human dignity and personal freedom. These rights are inherent to each person, regardless of their group identity, and are designed to safeguard personal autonomy and liberty. The UDHR emphasizes these rights to ensure that every individual, including those within religious minorities, can freely exercise their beliefs without coercion or discrimination (UDHR, 1948). While individual rights are widely recognized and protected, their implementation can be challenging in contexts where societal norms and legal systems do not fully support religious freedom. For instance, in Saudi Arabia, where apostasy or conversion from Islam is punishable by death, individuals from religious minorities may face severe persecution. A well-documented case is that of Saudi blogger Raif Badawi, who was sentenced to 10 years in prison and 1,000 lashes for, among other charges, "insulting Islam through electronic channels" ("Saudi blogger freed after decade in prison," 2022). This case illustrates the severe consequences individuals can face in countries where religious freedom is not upheld. In fact, while religious conversion is permissible in most countries, it is often not accepted in Muslim societies, where religion is considered divine and unchangeable. Therefore, it can be suggested that conversion laws should not solely be governed by general legal systems but should also consider the religious context of a society.

Article 2 of the UDHR states: "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 other opinion, national or social origin, property, birth, or other 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" (UDHR, 1948). However, while Article 2 of the UDHR broadly prohibits discrimination, it lacks detailed provisions for not only religious minorities but also minorities in general. Specifically, the absence of specific protections can lead to inadequate responses to issues such as difficulties in accessing religious education and establishing religious institutions,

which are crucial for maintaining and transmitting religious traditions. Additionally, without explicit safeguards, religious minorities may be vulnerable to hate speech and violence, which are not always effectively managed by general anti-discrimination principles. This principle is often difficult to uphold in diverse cultural and political contexts. For example, in Russia, restrictions on religious freedoms have severely impacted groups like Jehovah's Witnesses, who face numerous legal and societal obstacles. The Russian government has targeted Jehovah's Witnesses under laws aimed at combating extremism, leading to fines, detentions, and even criminal charges against members of the faith. This situation highlights the deteriorating conditions for religious freedom in Russia and the implications of vague legal definitions that allow for broad interpretations, leading to discrimination against these groups (Report on International Religious Freedom: Russia, 2023). This Article also guarantees equal rights for all individuals, but it fails to recognize the special needs and rights of religious groups and minorities in general. By making no reference to the word 'minority,' it can create tensions between ensuring equal treatment for all individuals and addressing the unique challenges and rights of minorities, especially in the context of religious diversity. These needs and rights include the preservation of cultural heritage, participation in decision-making processes that affect their communities, and protection from forced displacement. Additionally, minorities often face challenges such as limited access to healthcare, inadequate legal protection, and social exclusion, all of which hinder their ability to achieve true equality. Therefore, to improve this Article, it can be stated: "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 other opinion, national or social origin, property, birth, minority status, or other status. Furthermore, special attention shall be given to the needs and rights of religious groups and minorities, including the preservation of cultural heritage, participation in decision-making processes, and protection from forced displacement. 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".

Collective rights are crucial for preserving the identity and culture of minority groups. These rights recognize that the survival and flourishing of a minority group often depend on the ability of its members to maintain their shared cultural, linguistic, and religious practices. They are particularly relevant for religious minorities, whose practices and beliefs may be intertwined with their cultural identity (Jones, 2022). However, the recognition and protection of collective rights can be challenging, especially in multicultural societies where the interests of different groups may conflict. Ensuring that the collective rights of religious minorities are respected without infringing on the rights of other groups or individuals requires careful balancing. Moreover, some states may resist recognizing collective rights, viewing them as a threat to national unity or territorial integrity. For instance, in China, the Uyghur Muslims in Xinjiang and Tibetan Buddhists face severe restrictions justified by the government as measures against separatism (Human Rights Watch, 2024), and India's abrogation of Article 370, which granted autonomy to Jammu and Kashmir, reflects its prioritization of national integrity over regional autonomy for the Kashmiri Muslim population (Sharma, 2023).

Rehman suggests that the language used in Article 27 of ICCPR and Article 30 of Convention on the Rights of the Child (CRC)³ does not imply a collective status, indicating that distinguishing between individual and collective entitlements may not justify the existence of separate rights. Furthermore, there is a lack of consensus among experts regarding how freedom of religion intersects with the entitlements of religious minorities (Rehman, 2000). Rehman's assertion undermines the very essence of minority protections, which inherently require recognition of collective rights to safeguard the cultural and religious identities of groups. This perspective risks marginalizing the broader aspects of minority rights, reducing them to mere individual claims that fail to tackle challenges such as discrimination, social exclusion, and the destruction of cultural heritage faced by religious minorities. Furthermore, the acknowledgment of a lack of consensus among experts regarding the intersection of freedom of religion and minority rights highlights a troubling gap in legal scholarship and practice, suggesting a failure to adequately address the complexities of these rights in international law.

It is imperative to distinguish between religious minority rights and other minority rights, such as ethnic or linguistic, in order to address the specific needs and challenges faced by religious minorities (Hassan, 2022). The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief specifically addresses issues pertinent to religious minorities, emphasizing the need for tolerance and non-discrimination in religious matters (UN General Assembly, 1981). However, religious minorities often face discrimination and persecution based on the practice of their faith, which may not apply to other types of minorities. For instance, a ruling religious minority in a country may not allow another religious minority that is nationally and ethnically the same but faces discrimination due to religious differences. A notable example is the dominant Shiite Arab power in Iraq, which often excludes the Sunni Arab minority from significant participation in state governance because of religious differences (Luizard, 2022). Therefore, international instruments should note that religious minorities are often discriminated against due to their faith, rather than their national or ethnic characteristics.

Article 27 of the ICCPR has been the subject of much debate among scholars. Ghanea highlights a crucial aspect concerning the safeguarding of religious diversity, particularly in terms of protecting the rights of religious minorities to practice their faith (Ghanea, 2008). However, the absence of a clear definition of this entitlement poses a significant challenge, especially in clarifying what constitutes "religious diversity," identifying who qualifies as a "religious minority," and defining how these rights intersect with broader freedoms of religion and non-discrimination. Without such clarity, the application of these protections can become inconsistent, leading to legal ambiguities and ineffective safeguards for religious minorities. A precise definition, considering these challenges,

³ UN General Assembly, Convention on the Rights of the Child, United Nations, Treaty Series, vol. 1577, p. 3, 20 November 1989, <https://www.refworld.org/legal/agreements/unga/1989/en/18815>. Article 30 states "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language".

should include explicit criteria for identifying religious minorities, clear parameters for what constitutes religious diversity, and detailed guidelines on how these rights intersect with broader freedoms of religion and non-discrimination. This would ensure uniform application, legal certainty, and alignment with international human rights standards.

The 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) is an international instrument that establishes a comprehensive framework for the protection of minority rights, including those of religious minorities. The Declaration outlines four pillars of minority rights protection. Firstly, it affirms the right of minorities to exist and maintain their distinct identity, calling on states to “protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities” (Article 1(1)). Secondly, the Declaration emphasizes the principle of non-discrimination, guaranteeing that persons belonging to minorities shall enjoy their rights “without discrimination of any kind” (Article 2(1)). Thirdly, it recognizes the importance of promoting and protecting the distinct cultural, religious, and linguistic identity of minority groups, urging states to “encourage conditions for the promotion of that identity” (Article 1(1)). Lastly, the Declaration underlines the need for minorities to be able to participate effectively in decisions that affect them, stating that “persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life” (Article 2(3))⁴. The UNDM represents a significant advancement in safeguarding the rights of minorities, including religious minorities. Despite the UN General Assembly’s emphasis on minority rights and human rights, the Declaration is not legally binding (Kugelman, 2007). This means that it does not carry the same weight as an independent Declaration of Human Rights. However, the Declaration does aim to treat minorities as individuals, rather than simply members of a distinct minority group. The non-binding nature of the Declaration, categorized as soft law, has limited its practical effectiveness. Unlike treaties or conventions, the Declaration does not impose legally enforceable obligations on states, making it difficult to hold them accountable for violations. This limitation is particularly evident in the ongoing challenges faced by various religious minority groups worldwide, as mentioned earlier. For example, the Rohingya Muslims in Myanmar face severe persecution, including violence and displacement, due to their religious identity (Albert & Maizland, 2020). Similarly, the Yazidis in Iraq have experienced systematic violence and atrocities at the hands of ISIS, targeting them specifically for their religious beliefs (Human Rights Watch, 2023). Despite these severe violations, the International Criminal Court has not been able to investigate the genocide committed against the Yazidis, illustrating the limitations of current international mechanisms in protecting religious minorities (International Criminal Court, 2015).

The ambiguity in the language of the UNDM, especially in Article 2(1), has raised concerns. This Article states that “Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their religion, and to use

⁴ UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, A/RES/47/135, 3 February 1992, See the full text of Articles available at: <https://www.refworld.org/legal/resolution/unga/1992/en/13909>.

their language, in private and in public, freely and without interference or any form of discrimination.” However, it lacks specific protections for unique religious practices and has an ambiguous definition of “interference.” For instance, state actions that are not directly prohibitive but create an environment where religious practice is challenging, such as indirect restrictions on religious attire or practices, might not be sufficiently covered. The Article also falls short in recognizing collective rights necessary for community worship and does not explicitly address state-sanctioned religious intolerance. To improve the Article, it can be revised to “Persons belonging to national or ethnic, religious, and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their religion individually or in community with others, and to establish and maintain places of worship and religious institutions, in private and in public, freely and without interference or any form of discrimination. States are obligated to take active measures to promote and protect the religious identities and practices of minorities and to prevent and tackle direct and indirect discrimination”.

In 2006, the UN General Assembly adopted Resolution No. 251/60, which stated that the Human Rights Council must carry out periodic global monitoring, according to each country, of the steps the government has done to safeguard human rights so that every member state in the UN is subject to this procedure. Furthermore, every four years, this monitoring is based on three reports; the first of which is by the state itself that is subject to monitoring, and the other two reports are in the form of supplementary information issued by UN bodies, such as international NGOs, international human rights institutes, as well as university and regional institutions. These reports may contain information about the human rights situation and people belonging to minorities in those countries (UNGA, Resolution 251/60, 2006). However, the Resolution highlights a perceived inadequacy in the UN’s approach to safeguarding the rights of religious minorities. The critique centers on the resolution’s reports, suggesting they fall short of meeting the expectations of these minorities for two primary reasons. Firstly, the reports are criticized for framing issues more as suggestions or observations about countries rather than obligating them to address the concerns of religious minorities as distinct communities. Secondly, the comprehensive nature of reporting is seen as a hindrance, making it challenging for religious minorities to attain effective protection. For example, despite periodic global monitoring, concerns have been raised about religious discrimination, violence, and attacks against the Hindu minority in Bangladesh (Report on International Religious Freedom: Bangladesh, 2022). This prompts a critical examination of whether the UN and the Human Rights Council are fulfilling their intended roles in safeguarding religious minorities’ rights, raising questions about the effectiveness and focus of the monitoring process outlined in Resolution No. 251/60. Another aspect to consider is the potential lack of enforcement mechanisms within the resolution. While periodic global monitoring is outlined, the paragraph does not delve into whether there are consequences or actions taken if a country fails to meet the suggested measures for protecting human rights, especially those of religious minorities. The absence of clear repercussions might undermine the resolution’s effectiveness, as it could be perceived as lacking the means to ensure compliance. Enhancing accountability with clear enforcement mechanisms, conducting independent reviews of state reports, increasing monitoring frequency, and developing focused mechanisms within the Human

Rights Council can improve the protection of religious minorities. Leveraging technology for real-time data collection, such as mobile applications that allow for reporting incidents of discrimination and violence in real-time, fostering international cooperation, and ensuring comprehensive and detailed supplementary reports will also address these weaknesses and ensure more effective safeguarding of minority rights.

It is clear from the above that the protection of religious minorities under international instruments faces challenges due to broad definitions lacking specificity, leading to inconsistent recognition and protection. The UDHR emphasizes individual rights, while the ICCPR highlights collective rights essential for preserving group identities, creating a complex balance. Instruments like the UN Declaration on the Rights of Minorities make progress but are limited by their non-binding nature and ambiguous language, and UN monitoring mechanisms fall short in addressing the unique needs of religious minorities. To improve protection, precise definitions and stronger enforcement mechanisms are needed, such as legally binding treaties and clear repercussions for non-compliance. Enhancing the language of international instruments to explicitly address the needs of religious minorities, including cultural heritage preservation, participation in decision-making, and protection from displacement, along with improved UN monitoring through independent reviews and focused reporting, would provide better safeguards.

5.2. Regional Instruments

From its early years in 1949, the “Parliamentary Assembly of the Council of Europe” acknowledged the need for broader safeguarding of national minorities’ rights. In 1961, the Assembly recommended including a provision in an extra protocol to ensure certain rights for national minorities not enclosed by the “European Convention for the Protection of Human Rights and Freedoms”, adopted in Rome on November 4, 1950. In 1992, the Director of the Human Rights Commission, appointed by the Committee of Ministers, explored the possibility of establishing specific standards for the safeguarding of national minorities. On February 1, 1993, the Parliamentary Assembly of the Council of Europe adopted Recommendation No. 1201 (1993), which included a definition of “national minority”⁵(European Framework Convention for the Protection of National Minorities (FCNM), 1995).

The FCNM, adopted by the Council of Europe in 1995, is a significant regional tool emphasizing the protection of minorities. The Convention aims to prevent inequality and discrimination against national minorities and provides strict procedures for their

⁵ Recommendation 1201 (1993), Additional protocol on the rights of minorities to the European Convention on Human Rights. Available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15235>. Article 1 states “For this Convention, the expression “national minority” refers to a group of persons in a state who: a. reside on the territory of that state and are citizens thereof; b. maintain longstanding, firm and lasting ties with that state; c. display distinctive ethnic, cultural, religious or linguistic characteristics; d. are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state; e. are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language.”

protection by the Member States of the Council of Europe. Additionally, addressing the protection of religious freedom, language, history, and culture of national minorities, as well as their freedom to associate with others based on the legal framework within the state, are also crucial issues (Ringelheim, 2010). However, both Hidayat and Frowein contend that the FCNM lacks a precise definition of ‘national minority’. Frowein asserts that member states are entrusted with this determination (Frowein & Bank, 1999). For instance, Germany officially recognizes only two national minorities, the Danes and the Sorbians, yet extends the Convention’s principles to other groups like German Frisians, Sinti, and Roma (Minority Rights Group, 2020). Hidayat further argues that this ambiguity stems from the ‘margin of appreciation,’ allowing states to decide which minorities fall under the Convention’s purview. As per Article 3 of the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), states are not obligated to use the term ‘national minority’ in their domestic legal frameworks to identify a relevant group (Hidayat, 2013). Although the existence of such a convention for the protection of minorities is positive, its scope is limited because it is specific to minorities in European countries and includes minorities in general under the term ‘national minorities’. However, minorities are divided into categories, namely religious minorities, ethnic minorities, and national minorities (Hassan, 2022). The convention does not classify minorities, including religious minorities. Furthermore, the reference to Article 3 of the ACFC, which allows states not to use the term ‘national minority’ in their domestic laws, adds another layer of complexity. This provision can lead to further ambiguity and inconsistency in the protection of religious minorities. States might adopt varying standards, which could result in unequal treatment of religious minorities across Europe.

Article 3(2) of the FCNM grants individuals from national minorities the right to exercise their rights both individually and collectively. However, this article tends to generalize the rights of all national minorities without sufficiently recognizing the challenges faced by religious minorities as mentioned earlier such as restrictions on worship, the establishment of places of worship, and the right to manifest their beliefs publicly. For example, the Pomaks in Greece have reported pressures to conceal their religious identity to advance in their careers (Topidi, 2021). While the article allows for collective rights, it does not explicitly mention the specific religious practices or institutional needs of these groups. More importantly, this article is inconsistent with Article 27 of the ICCPR, which is binding on states and emphasizes collective rights; rather, it merely recognizes the potential for the common exercise of rights, which is distinct from collective rights. Frowein has therefore argued that how it recognizes religious groups. Religious identity often carries significant importance, prompting a case for more explicit considerations to safeguard the rights and needs of religious minority groups within the broader framework of the Convention’s definition (Frowein, 1999). Therefore, the FCNM should include explicit provisions for religious practices and institutional needs. This would ensure that unique issues, such as restrictions on worship and the establishment of places of worship, are clearly recognized and protected. Harmonizing the FCNM with Article 27 of the ICCPR could provide a more robust framework for collective rights, addressing the gap between general rights and specific protections for religious minorities. Additionally, incorporating explicit guidelines and mechanisms for the protection of religious identity would enhance the effectiveness of the FCNM in safeguarding the rights of these groups.

Article 6 of FCNM states “The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media”. Although Article 6 of the FCNM explicitly includes the phrase “all persons living in the territory,” which has the potential to benefit minorities, it lacks specific guidelines for determining how religious minority groups should receive state support to maintain their unique identities. For instance, in the case of the Muslim community in France, the government has implemented policies such as the controversial ban on wearing religious symbols in public schools (Dille, 2023). While these measures are often justified on the grounds of maintaining public order and national values, they can inadvertently marginalize religious minorities and hinder their ability to express their cultural identity. To uphold the rights of religious minorities effectively, it is crucial to establish clear frameworks that outline the state’s responsibilities in supporting cultural and religious practices. For instance, the Advisory Committee of the FCNM emphasizes that states should facilitate the construction of places of worship and ensure access to religious education for minority groups (Topidi, 2021). These measures are vital for preserving cultural identity and fostering mutual respect among diverse populations.

Article 3(1) states, “Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such, and no disadvantage shall result from this choice or from the exercise of the rights connected to that choice.” Although this article can benefit religious minorities within the framework of an ethnic minority, it is important to recognize that religious minorities can differ significantly from ethnic minorities, as a person may belong to a religious group rather than an ethnic group, as mentioned earlier. For example, in a diverse country like India, where various religious communities coexist, the distinction between ethnic and religious minorities becomes evident. While ethnic minorities like the Nagas have distinct cultural and linguistic identities, religious minorities such as Muslims, Sikhs, or Christians are defined by their religious beliefs rather than their ethnicity (Pahrü Pou, 2022; Stausberg et al., 2023). However, if the article focuses solely on the protection of national minorities, the position and characteristics of religious minorities may not be adequately recognized. Therefore, it is crucial to address the distinct needs of religious minorities alongside those of national minorities. A common solution would be to amend the legal frameworks to explicitly include protections for both national and religious minorities. Article 3(1) could be revised to state: “Every person belonging to a national or religious minority shall have the right to freely choose to be recognized or not recognized as such, and no disadvantage shall result from this choice or from the exercise of the rights connected to that choice. States shall take effective measures to ensure that both national and religious minorities receive adequate support to maintain their cultural and religious practices and to ensure their full and equitable participation in society.”

Another regional instrument adopted by the Council of Europe in 1992 was the European Charter for Regional or Minority Languages (ECRML). The charter aimed to protect the regional and minority languages settled and spoken in Europe. However,

it can be said that this charter did not address the groups of immigrants who speak differently from the countries they migrated to. In other words, citizens who migrated to Europe and are now residents, even those outside Europe, could not benefit from this charter (De Groot, 2019). However, this observation is more logical in suggesting that the ECRML might have limitations in addressing linguistic diversity among immigrant populations. While the charter focuses on safeguarding regional and minority languages within European borders, its scope appears insufficient in extending protection to the languages spoken by immigrant communities residing in Europe. For instance, if someone from Asia moves to Europe and speaks a language different from the majority language in their new European country, the Charter may not cover or protect that immigrant's language rights. The charter is primarily focused on safeguarding the regional and minority languages that have historical roots within European regions. Therefore, recognizing and accommodating the linguistic rights of immigrants could enhance the effectiveness of such instruments.

There is also a concern about the lack of consideration for religious minorities in the Charter. While it addresses the protection of linguistic diversity among immigrants, it does not touch upon the status or protection of religious minorities. This is because the Charter's scope is specifically tailored to the preservation and promotion of linguistic rights, rather than encompassing broader minority rights issues such as those related to religion. The protection of religious minorities and their practices would typically fall under the purview of other legal frameworks, such as the European Convention on Human Rights (ECHR), its protocols, and the FCNM, which specifically address the right to freedom of thought, conscience, and religion. Therefore, criticizing the charter for its lack of attention to religious practices or the rights of religious minorities among immigrants may be misplaced, as it falls outside the charter's intended agenda, which primarily revolves around linguistic diversity among traditional minorities.

According to Article 9 of the ECHR, everyone has the right to think, believe, and practice their religion freely. This includes the freedom to change one's religion or belief and to express it publicly or privately, alone or with others, through worship, teaching, practice, and observance. However, these freedoms may be restricted by law if it is necessary in a democratic society to protect public safety, order, health, morals, or the rights and freedoms of others. Although, the ECHR provides important protections for religious minorities through key provisions like freedom of religion and non-discrimination, as mentioned earlier, criticisms include the wide "margin of appreciation" granted to states, lack of specific minority rights, and challenges in enforcement. For example, in the *Karaduman v. Turkey* case which involved a Turkish university student who was denied her graduation certificate because she refused to provide a photograph of herself without wearing an Islamic headscarf. The student argued that this refusal violated her right to freedom of religion under Article 9 of the ECHR. In its 1993 decision, the European Commission of Human Rights (which preceded the European Court of Human Rights (ECtHR)) rejected the student's claim. The Commission held that the university's requirement for a headscarf-free photograph did not constitute an interference with the student's right to freedom of religion. The Commission reasoned that the refusal to issue the certificate was based on a generally

applicable regulation, not a specific targeting of the student's religious beliefs. It found that the student could still manifest her religion in other ways, and that the university's interest in maintaining a secular image outweighed the student's individual interest (*Karaduman v. Turkey*, 1993). This decision has been criticized by some scholars as demonstrating the European Court's overly deferential approach to state restrictions on religious expression, particularly for religious minorities. Arai-Takahashi criticized that the "margin of appreciation" doctrine allowed the Court to grant a wide latitude to Turkey in balancing secularism and individual religious rights (Arai-Takahashi 2002). Baderin and Ssenyonjo also argue that if a person's wearing of a headscarf does not pose a threat to public safety, priority should be given to ensuring religious freedom, such as by restoring university regulations. This principle is clearly outlined in both ECHR and the ICCPR (Baderin & Ssenyonjo, 2010). These perspectives highlight the need for the Court to protect religious freedoms more vigorously, ensuring that individual rights are not unduly compromised by state-imposed restrictions. These criticisms provide valuable insight into the limitations of the current court approach and suggest the need for greater clarity and strength in protecting religious freedoms provided they do not threaten the country's security, especially for minority groups.

Ferri argues that the Court's reliance on universal principles provides weak protection for religious minorities due to its "liberal and individualistic approach." He highlights that the Court tends to focus on the individual's right to exercise freedom of religious belief rather than on their adherence to a minority religion (Ferri, 2021). However, Ferri's argument raises valid concerns about the court's potential oversight of the collective rights of minority groups in favour of individual liberties. Therefore, the Court could develop a stronger framework that clearly incorporates both individual and collective rights by referring to instruments such as the UDHR and ICCPR, which includes guidelines recognizing the challenges faced by minority groups. Examining specific cases could also help identify where collective rights were overlooked and suggest improvements. Engaging with minority groups for their perspectives, developing hybrid models that balance individual and collective protections, and advocating for legislative reforms are essential steps to ensure protection of religious minorities.

Article 22 of the European Charter of Fundamental Rights (CFR) emphasizes the protection of multiculturalism, religion, and linguistics, stating, "Cultural, religious, and linguistic diversity shall be respected." This highlights the significance of cultural, religious, and linguistic diversity, emphasizing the need for respect. While it acknowledges the importance of preserving multiculturalism, religion, and languages, it is noteworthy that this Article also lacks explicit mention of safeguarding the rights of religious minorities. This omission raises questions about whether the Charter adequately considers the specific concerns and protections required for these vulnerable groups within the broader context of cultural diversity. For instance, consider a scenario where a religious minority faces discrimination or persecution within a member state of the European Union. Article 22's general commitment to respecting cultural, religious, and linguistic diversity might not offer sufficient protection for the targeted religious community. The case of an Iraqi citizen burning a Quran in front of a mosque in Stockholm, Sweden (Berry, 2023), could be cited as an example of the limitations of

Article 22 of the European Charter of Fundamental Rights. In this context, the incident may underscore the potential shortcomings of the article in addressing instances of religious intolerance or hate crimes against religious minorities. It is even a violation of Article 6 of the FCNM, mentioned earlier, which emphasizes the spirit of coexistence among all those living in a territory.

A crucial regional tool for safeguarding minorities is the “African Charter on Human and Peoples’ Rights.” Similar to the international instruments mentioned earlier, this Charter underscores the protection of minorities in the context of general principles, as articulated in Article 2. The article states, “Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind, such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth, or other status.” However, finding explicit protection for the minority concept in this charter is challenging due to diverse populations with entirely different minorities. Essentially, the population comprises various ethno-linguistic groups, resembling an indigenous population where none has formed a majority. For instance, there are thousands of African nations, each with distinct linguistic and cultural dialects, encompassing ethnolinguistic groups like Afroasiatic, Khoisan, Niger-Congo, and Nilo-Saharan (“List of ethnic groups of Africa”, n. d). This complexity results in the Charter not providing robust legal protection for religious minorities or minorities in general. Rather, it defines them as individuals rather than recognizing them as distinct communities. These dual challenges underscore the intricate task the Charter faces in safeguarding minority rights within the diverse sociocultural landscape of Africa.

It is clear that the existing regional legal frameworks, such as the Framework Convention for the Protection of National Minorities (FCNM), the European Charter for Regional or Minority Languages (ECRML), and the European Convention on Human Rights (ECHR), have significant limitations in adequately protecting religious minorities. These instruments often lack precise definitions and specific provisions for religious minorities, leading to ambiguity and inconsistent protection across member states. The FCNM, while comprehensive, fails to address the needs of religious minorities, and the ECHR’s broad “margin of appreciation” allows states to impose restrictive measures on religious expression. Additionally, the African Charter on Human and Peoples’ Rights faces challenges in safeguarding minority rights due to Africa’s diverse ethno-linguistic landscape.

6. CONCLUSION

In conclusion, this paper has explored the multifaceted challenges in defining and protecting religious minorities within the context of international and regional legal frameworks. The literature review revealed significant gaps and debates in the existing research, highlighting the need for more effective approaches to safeguarding religious minorities. Defining religious minorities remains a contentious issue, influenced by varying legal, political, and social perspectives. The lack of a universally accepted definition creates difficulties in implementing consistent protections, often leading to ambiguities and inconsistencies in safeguarding the rights of these groups. The diverse

interpretations and applications of what constitutes a religious minority underscore the need for clearer definitions that reflect the identities and challenges faced by these groups. The examination of international instruments, including the UDHR, ICCPR, and the ECtHR's approach to religious freedom, revealed both strengths and limitations. While these frameworks provide foundational protections for religious freedom and non-discrimination, they often fall short in meeting the specific needs and challenges of religious minorities. The ECtHR's reliance on the "margin of appreciation" doctrine, for instance, has led to varied and sometimes restrictive interpretations of religious rights, particularly affecting minority groups. Similarly, regional instruments such as the FCNM, ECRML, and the African Charter on Human and Peoples' Rights were found to have significant limitations. The FCNM, despite its wide scope, fails to explicitly address the needs of religious minorities and leaves much discretion to member states, leading to inconsistent protections. The ECRML's focus on linguistic diversity neglects the broader issues of religious minority rights, while the African Charter's general principles struggle to provide robust protection within the continent's diverse ethno-linguistic landscape. Several key challenges and specific needs have been identified in the protection of religious minorities. One major challenge is the interference of the majority in the affairs of religious minorities, which often exacerbates their vulnerabilities and undermines their autonomy. Another challenge is the lack of explicit legal provisions and clear frameworks to support the cultural and religious practices of minorities, such as facilitating the construction of places of worship and ensuring access to religious education. Additionally, the ongoing issue of inconsistencies in the interpretation and application of protections across different jurisdictions further complicates the safeguarding of religious minorities.

To tackle these challenges and meet the needs of religious minorities, several recommendations are proposed. First, the position of religious minorities must become a common issue for both the state and religious minorities themselves. This involves ensuring that religious minorities have legitimate representation to convey their genuine voice on all platforms, serving their interests broadly. Second, one of the factors that can worsen the problems of religious minorities is the interference of the majority in their affairs. This interference, regardless of its nature, often exacerbates the vulnerabilities of religious minorities and undermines their autonomy. Third, an annual conference should be held to deepen the coexistence of religious diversity. This conference should involve police, international legal institutions, and religious educators to foster mutual understanding and cooperation. Fourth, the education system should incorporate specific methods to teach communities about the history, characteristics, and concepts of coexistence, tolerance, and peaceful cohabitation. Special attention should be given to respecting and understanding each other's religion within all educational institutions. In summary, while significant strides have been made in the legal protection of religious minorities, there remains a critical need for more precise definitions, specific legal provisions, and practices that address their needs and challenges. By implementing these recommendations, international and regional frameworks can better safeguard the rights of religious minorities to prevent social and economic instability in the international community.

REFERENCES

Books

- ARAI-TAKAHASHI, Y., & ARAI, Y. (2002). *The Margin of Appreciation Doctrine and the Principle of Proportionality in the Jurisprudence of the ECHR*. Intersentia nv.
- ASAD, T. (2003). *Formations of the secular: Christianity, Islam, modernity*. Stanford University Press. <https://research.manchester.ac.uk/en/publications/religious-minorities-conceptual-perspectives>.
- BADERIN, MASHOOD A. & SSENYONJO, M. (2010). *International human rights law: six decades after the Udhr and beyond*. Ashgate Publishing Limited.
- BIELEFELDT, H., GHANEA-HERCOCK, N., & WIENER, M. (2016). *Freedom of religion or belief: An international law commentary*. Oxford University Press.
- GRIM, B. J., & FINKE, R. (2011). *The price of freedom denied: Religious persecution and conflict in the twenty-first century*. Cambridge University Press.
- HASSAN, C. (2022). *Legal framework for community rights in the Kurdistan Region of Iraq*. Rudaw Research Center.
- HURD, E. S. (2015). *Beyond religious freedom: The new global politics of religion*. Princeton University Press.
- KRISHNASWAMI, A. (1960). *Study of Discrimination in the Matter of Religious Rights and Practices*. New York: United Nations publication. https://www.ohchr.org/sites/default/files/Documents/Issues/Religion/Krishnaswami_1960.pdf.
- MINORITY CONCERN. (2023). *Submissions for the 4th Universal Periodic Cycle (29th session of the UPR)*. Blackburn, BB1 1UE, Lancashire, UK. https://www.upr-info.org/sites/default/files/country-document/2023-03/MCP_UPR42_PAK_E_Main.pdf.
- REHMAN, J. (2021). *The weaknesses in the international protection of minority rights*. BRILL. <https://books.google.iq/books>.
- WAHBAN, A. (2006). *Ethnic conflicts and stability in the contemporary world: A study of minorities, groups, and ethnic movements*. Kotobarabia.com.
- YAQO, M. Y. (2022). *Minority political participation in the Kurdistan Region of Iraq*. Rudaw Research Center.

Journals

- ALVES, J. A. L. (2008). Race and religion in the United Nations Committee on the elimination of racial discrimination. *USFL Rev.*, 42, 941. <https://repository.usfca.edu/usflawreview/vol42/iss4/3/>.

- BERRY, S. E. (2012). A Tale of two instruments: Religious minorities and the Council of Europe's Rights regime. *Netherlands Quarterly of Human Rights*, 30(1), 10-39. <https://sci-hub.yncjkj.com/10.1177/016934411203000102>
- BIELEFELDT, H., PINTO, T. A., & PETERSEN, M. J. (2022). Introduction: Freedom of Religion or Belief as a Human Right. *The Review of Faith & International Affairs*, 20(2), 1-12. <https://www.tandfonline.com/doi/full/10.1080/15570274.2022.2065799>.
- BISHARA, A. (2021). Majorities, minorities, and tolerance. In *Sectarianism without sects* (online ed.). Oxford Academic. <https://academic.oup.com/book/39801/chapter-abstract/339911550?redirectedFrom=fulltext&login=false>.
- BOTHWELL, X., & PEIRSON, A. (2019). International Standards for Protection of Religious Freedom. *Ann. Surv. Int'l & Comp. L.*, 23, 49. <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1212&context=annlsurvey>.
- CASTELLINO, J., & THOMAS, C. (2021). Modelling Equality in the Midst of Religious Diversity: Lessons from Beyond Europe? *Religions*, 12(11), 923. <https://www.mdpi.com/2077-1444/12/11/923>.
- DE GROOT, G. R. (2019). European Charter for Regional and Minority Languages. In T. Schoonheim, & J. Van Hoorde, *Language variation. A factor of increasing complexity and a challenge for language policy within Europe. Contributions to the EFNIL Conference* (pp. 115-128). <https://cris.maastrichtuniversity.nl/en/publications/european-charter-for-regional-and-minority-languages>.
- FATIMA, B. (2018). The Political Rights of Minorities in the Light of International Law. *Comparative Legal Studies* 4 (2), 103-119. <https://www.asjp.cerist.dz/en/article/67739>.
- FAWZIA, H. (2018). Differential Cultural Exclusion and its Impact on the Realization of the Cultural Rights of Minorities. *Journal of Legal and Political Sciences* 9, (2), 908-935. <https://www.asjp.cerist.dz/en/article/57004>.
- FERRARI, D. (2021). New and old religious minorities in international law. *Religions*, 12(9), 698. <https://www.mdpi.com/2077-1444/12/9/698>.
- FERRI, M. (2021). How to Strengthen Protection of (Religious) Minorities and Cultural Diversity under EU Law: Some Lessons from Human Rights Protection System. *Religions*, 12(10), 864. <https://www.mdpi.com/2077-1444/12/10/864>.
- FROMEIN, J. A., & BANK, R. (1999). The Effect of Member States' Declarations Defining" National Minorities" upon Signature or Ratification of the Council of Europe's Framework Convention. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, 59(3-4), 649 - 675. https://www.zaoerv.de/59_1999/59_1999_3_a_649_676.pdf.
- GHANEA, N. (2008). Religious or minority? Examining the realisation of international standards in relation to religious minorities in the Middle East. *Religion, state & society*, 36(3), 303-325. <https://www.tandfonline.com/doi/abs/10.1080/09637490802260385>.

- GHANEA, N. (2012). Are religious minorities really minorities?. *Oxford Journal of Law and Religion*, 1(1), 57-79. <https://academic.oup.com/ojlr/article/1/1/57/1547718>.
- GUNN, T. J. (2020). Do Human Rights Have a Secular, Individualistic & Anti-Islamic Bias?. *Daedalus*, 149(3), 148-169. <https://direct.mit.edu/daed/article/149/3/148/94865/Do-Human-Rights-Have-a-Secular-Individualistic-amp>.
- HIDAYAT, R., & ZUBAIR, M. (2013). Development of Minorities' Rights and Critical Analysis of Contemporary Comparative International Human Rights Law for their Protection. *International Research Journal of Social Sciences*, 2(7), 53-58. <https://isca.me/IJSS/Archive/v2/i7/8.ISCA-IRJSS-2013-086.pdf>.
- ISSA, A. & QARISH, J. (2022). The obstacles facing the International protection of Muslim minorities. *El Ihyaa Journal* 22(2), 491-514. <https://www.asjp.cerist.dz/en/article/193763>.
- JAMAL, Q. (2016). New Rights for Minorities in International Human Rights Law (Prevention of Discrimination as a Model for this). *Journal of Legal and Political Research and Studies* (1), 170-195. <https://www.asjp.cerist.dz/en/article/30407>.
- KUGELMANN, D. (2007). The protection of minorities and indigenous peoples respecting cultural diversity. *Max Planck Yearbook of United Nations Law Online*, 11(1), 233-263. https://www.mpil.de/files/pdf1/mpunyb_06_kugelmann_11.pdf.
- OLIAEI, H. (2023). Navigating Dispute and Displacement: The Yazidi Experience in Post-ISIS Iraq. *Crown Center for Middle East Studies*, No. 151. <https://www.brandeis.edu/crown/publications/middle-east-briefs/pdfs/101-200/meb151.pdf>.
- REHMAN. (2000). Accommodating religious identities in an Islamic state: international law, freedom of religion and the rights of religious minorities. *International Journal on Minority and Group Rights*, 7(2), 139-165. https://brill.com/view/journals/ijgr/7/2/article-p139_3.xml.
- RINGELHEIM, J. (2010). Minority Rights in a Time of Multiculturalism—The Evolving Scope of the Framework Convention on the Protection of National Minorities. *Human Rights Law Review*, 10(1), 99-128. <https://academic.oup.com/hrlr/article-abstract/10/1/99/602507>.
- RUIZ VIEYTEZ, E. (2024). Religious Diversity, Minorities and Human Rights: Gaps and Overlaps in Legal Protection. *Religions*, 15(1), 87. <https://www.mdpi.com/20771444/15/1/87>.
- SEALY, T., MAGAZZINI, T., MODOOD, T., & TRIANDAFYLLIDOU, A. (2021). Managing religious diversity in Europe. *OUP UNCORRECTED PROOF – FIRST PROOFS, NEWGEN*, 568 -584. <https://academic.oup.com/edited-volume/37088/chapter/323195548>.
- STAHNKE, T., & BLITT, R. C. (2005). The religion-state relationship and the right to freedom of religion or belief: A comparative textual analysis of the constitutions of predominantly Muslim countries. *Geo. j. Int'l L.*, 36, 947. https://ir.law.utk.edu/cgi/viewcontent.cgi?article=1323&context=utklaw_facpubs.

- STAUSBERG, M., VANDER HAVEN, A., & BAFFELLI, E. (2023). Religious Minorities: conceptual perspectives. *Religious Minorities Online*.
- SUNDARARAJAN, A. (2017). Religious Freedom and International Law: the Protection of Religious Minorities in International *Tribunals*. *International Immersion Program Papers*. 67. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1066&context=international_immersion_program_papers.
- TOPIDI, K. (2021). Religious Minority Identity in the Work of the Advisory Committee of the Framework Convention for the Protection of National Minorities: A Multifaceted Challenge in Evolution. *Religions*, 12(10), 858. <https://www.mdpi.com/2077-1444/12/10/858>.
- WILSON, D. (2002). *Minority rights in education: Lessons for the European Union from Estonia, Latvia, Romania and the former Yugoslav Republic of Macedonia*. Raoul Wallenberg Institute. https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Duncan_Minority_Rights_in_Education_2002_en.pdf.

Websites

- ALBERT, E., & MAIZLAND, L. (2020, January 23). *The Rohingya crisis*. Council on Foreign Relations. <https://www.cfr.org/backgrounder/rohingya-crisis>.
- BERRY, A. (2023, June 6). Sweden: Man burns Quran outside mosque during Eid al-Adha. *Deutsche Welle (DW)*. <https://corporate.dw.com/en/about-dw/s-30688>.
- DE GAAY FORTMAN, B. (2011). Minority Rights: A Major Misconception? *Hum. Rs. Q.*, 33, 265. https://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&q=Minority+Rights%3A+A+Major+Misconception%3F&btnG=.
- DEIBERT, N. (2023, December 7). When the beliefs of a religious majority infringe upon the rights of smaller groups, civil society must push back. *Freedom House*. <https://freedomhouse.org/article/protecting-rights-religious-minorities-crucial-protecting-democracy-itself>.
- DILLE, J. (2023, March). *Religious discrimination against Muslims in France*. Ballard Brief. <https://ballardbrief.byu.edu/issue-briefs/religious-discrimination-against-muslims-in-france>.
- HUMAN RIGHTS WATCH. (2024, January 31). *China: Religious regulations tighten for Uyghurs*. <https://www.hrw.org/news/2024/01/31/china-religious-regulations-tighten-uyghurs>.
- IRAN ARRESTS NINE MORE MEMBERS OF BAHAI FAITH. (2023, August 14). *RFE/RL's Radio Farda*. <https://www.rferl.org/a/iran-bahai-arrests-persecution/32547372.html>.
- JONES, P. (2022). *Group rights*. In E. N. ZALTA & U. NODELMAN (Eds.), *The Stanford encyclopedia of philosophy* (Fall 2022 ed.). <https://plato.stanford.edu/archives/fall2022/entries/rights-group/>.

- LIST OF ETHNIC GROUPS OF AFRICA. (n.d.). Retrieved from https://www.wikiwand.com/en/List_of_ethnic_groups_of_Africa#References.
- LUIZARD, P.-J. (2022, June 3). 2003-2022: The impossible Shiite power in Iraq. *French Research Center on Iraq*. <https://cfri-irak.com/en/article/2003-2022-the-impossible-shiite-power-in-iraq-2022-06-01>.
- MINORITY RIGHTS GROUP. (2020). Germany. Retrieved from <https://minorityrights.org/country/germany/>.
- PAHRŪ POU, Z K. (2022, June 26). If Indians can be Indian, Nagas can be Naga too. *The Morung Express*. <https://morungexpress.com/if-indians-canbe-indian-nagas-can-be-naga-too>.
- RAIF BADAWI: Saudi blogger freed after decade in prison. (2022, March 11). Retrieved from <https://www.bbc.com/news/world-middle-east-60714086>.
- SHARMA, P. (2023, December 11). Article 370: A temporary provision: Supreme Court upholds abrogation of special status of Jammu and Kashmir. *LiveLaw*. <https://www.livelaw.in/top-stories/article-370-supreme-court-abrogation-of-special-status-of-jammu-and-kashmir-244198>.
- STAUSBERG, M., VANDER HAVEN, A., & BAFFELLI, E. (2023). Religious Minorities: conceptual perspectives. *Religious Minorities Online*. <https://research.manchester.ac.uk/en/publications/religious-minorities-conceptual-perspectives>.
- U.S. Department of State. (2022). *Report on International Religious Freedom: Bangladesh*. <https://www.state.gov/reports/2022-report-on-international-religious-freedom/bangladesh/>.
- U.S. Department of State. (2023). *2023 report on international religious freedom: Russia*. <https://www.state.gov/reports/2023-report-on-international-religious-freedom/russia/>.

Reports

- International Criminal Court. (2015, April 8). *Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the alleged crimes committed by ISIS*. <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-alleged-crimes-committed-isis>.
- UNGS. *Education, language and the human rights of minorities, Report of the Special Rapporteur on minority issues*, 2020, A/HRC/43/47, available at: https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Education%2C%20language%20and%20the%20human%20rights%20of%20minorities_2020_En.pdf.

International instruments

- Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at: <https://www.refworld.org/docid/3ae6b3b04.html>.

- Council of Europe, *Framework Convention for the Protection of National Minorities*, 1 February 1995, ETS 157, available at: <https://www.refworld.org/docid/3ae6b36210.html>.
- Human Rights Watch. (2023). *Iraq events of 2022*. <https://www.hrw.org/world-report/2023/country-chapters/iraq>.
- Recommendation 1201 (1993), *Additional protocol on the rights of minorities to the European Convention on Human Rights*. <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15235>.
- UN General Assembly, *Convention on the Rights of the Child*, United Nations, Treaty Series, vol. 1577, p. 3, 20 November 1989. <https://www.refworld.org/legal/agreements/unga/1989/en/18815>.
- UN General Assembly, *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 3 February 1992, A/RES/47/135. <https://www.refworld.org/docid/3ae6b38d0.html>.
- UN General Assembly, *Human Rights Council: resolution / adopted by the General Assembly*, 3 April 2006, A/RES/60/251. <https://www.refworld.org/docid/4537814814.html>.
- UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171. <https://www.refworld.org/docid/3ae6b3aa0.html>.
- UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III). <https://www.refworld.org/docid/3ae6b3712c.html>.
- UN General Assembly. (1981, November 25). *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* (A/RES/36/55). <https://www.refworld.org/legal/resolution/unga/1981/en/5952>.

Case Law

- Karaduman v. Turkey, 16278/90, 1993. <https://www.scribd.com/document/367747436/Karaduman-v-Turkey>.

Theses

- AL-TAYYIB, B. A. (2012). *The Rights of Religious Minorities: A Comparative Study between Islamic Law and International Law* [Master's thesis, Adrar University]. <https://dspace.univ-adrar.edu.dz/jspui/bitstream/123456789/832/1/%D8%AD%D9%82%D9%88%D9%82%20%D8%A7%D9%84%D8%A7%D9%82%D9%84%D9%8A%D8%A7%D8%AA%20%D8%A7%D9%84%D8%AF%D9%8A%D9%86%D9%8A%D8%A9.pdf>.
- COSTA, M. (2008). *Towards an open definition of genocide: an inquiry into the construction of "ethnic" conflict in Darfur* [Master's thesis, Utrecht University]. <https://repository.gchumanrights.org/items/32406670-1bc6-4107-95d4-95e475b070c2>.

Received: 2nd February 2024

Accepted: 19th August 2024

