

*In the Name of Allah, the Most Gracious, the Most Merciful*

## **“World Conventions and Minority Rights”**

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## Background

Multi-ethnic states are the norm in today's world. The traditional nation-state, where a single distinct national group corresponds to a territorial unit, has become a thing of the past. Globalization and the increasing movement of people across borders threaten to obliterate the distinctive borders of homogenous nation states. However, some myths resist reality, and majority or dominant cultures in countries around the world still seek to impose their identity on other groups with whom they share a territory.

Attempts to impose cultural characteristics of the dominant majority in multi-ethnic environments often come at the expense of minority rights. To avoid marginalization, minorities often intensify their efforts to preserve and protect their identity. As the struggle between opposing forces intensifies – rigorous attempts at assimilation on the one hand and resistant preservation of minority identity on the other -- can cause increased intolerance and, in the worst case, armed ethnic conflict. In such cases and in order to prevent escalation, the protection and promotion of minority rights becomes essential. Upholding minority rights and addressing minority issues proactively is imperative for sustainable peace to prevail.

This paper shall discuss the main issues on minority rights today and the conventions in place to uphold these rights. It shall overview the rights and laws in various countries and assess their effectiveness. This is followed by descriptions of the rights and facilities enjoyed by minorities at the time of Prophet Mohammad (SAW). The paper shall then recommend innovative solutions to the raging minority issues of the day and propose creative solutions adopting modern approach of the Prophet's ideals for resolution of minority conflicts and ensure peaceful and mutually beneficial coexistence of various nations, races and ethnic groups.

## World Conventions & Minorities Rights

The Term Minority does not have any internationally agreed definition. The United Nations (UN) in the 1992 by UN Declaration article 2.2 states that the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities refers to 'national or ethnic, religious and linguistic minorities'. The Organization for Security and Cooperation in Europe (OSCE) emphasizes national minorities, but in neither of these frameworks are the terms precisely defined.

Ordinarily, Minority group is a group of people who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live in and are often subjected to differential and unequal treatment, and who therefore regard themselves as objects of collective discrimination. These Groups at times find themselves marginalized as indigenous peoples, territorially-based national minorities, and other non-territorially based minority groups (i.e. immigrant groups) and have increasingly advanced claims for rights and equality in respective societies. Given these claims, political theorists have highlighted the need to theorize the links between group identity and democratic politics. Minorities - ethnic, religious and others - can be found in every country of the world and are distrusted, feared, even hated or ignored.

Minority rights, as applying to ethnic, religious or linguistic minorities and indigenous peoples, are an integral part of international human rights law. Like children's rights, women's rights and refugee rights, minority rights have a legal framework, designed to ensure that a specific group which is in a vulnerable, disadvantaged or marginalized position in society, is able to achieve equality and is protected from persecution. Many countries have specific laws, or bodies such as a commission or ombudsman, to protect minority rights. (An example is the Constitution of South Africa and the Swedish Ombudsman against Ethnic Discrimination). In some countries, a minority ethnic group is recognized by the respective laws of that country and has some rights that other groups lack. Speakers of a legally-recognized minority language, for instance, might have the right to education or communication with the government in their mother tongue.

The rights of minorities broadly cover three areas:

- civil rights
- political rights;
- Socio-economic and cultural rights (including land rights, which are sometimes of particular importance in the current economic transformation process in the former communist countries: privatization, repatriation and restitution of property may threaten minorities' rights);

These rights are enshrined in various international standards

## **Global Institutions and Human Rights**

In an era of globalization one would expect global institutions to be deepening and strengthening their work, particularly on human rights which includes minority rights. Among global human rights institutions, the UN remains the only one with any legitimacy or power. The Working Group on Minorities, the only UN specialized body on minorities, runs the risk of being part of this crisis in the Charter Bodies. It is now under attack from some governments that allege it has not been effective in changing conditions on the ground, even though it was not designed to, nor given the budget that would allow it to do so. On the other hand, if it did become effective in challenging governments, those governments would then attempt to clip its wings through the Commission.

## **International Standards and Monitoring**

**United Nation:** In 1992, the General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. As the only United Nations instrument that specifically addressed the special rights of minorities, the Declaration can be viewed as a point of reference for the international community. It includes a list of rights that minorities are entitled to, including the right to enjoy their own culture without interference, and the right to participate effectively in decisions at the national level. States are requested to take measures in the field of education in order to encourage the dissemination of knowledge of the history, traditions, language and culture of minorities existing within their territories and implement national policies and programs with due regard for minority interests.

Multilateral monitoring of compliance of international commitments of the states with regard to protecting minority rights has increased transparency. Within the United Nations system, this responsibility is shared by the Commission on Human Rights, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Racial Discrimination. A Working Group on Minorities has also been established in order to review the promotion and practical realization of the Declaration. It serves as the focal point of the United Nations in the field of minority protection and is the main forum for constructive dialogue on the treatment of minorities by Governments.

Although all of the above mentioned bodies are integral to the promotion and establishment of minority rights, it is the reports submitted on behalf of the State parties to the International Convention on the Elimination of all Forms of Racial Discrimination that provide an overview of the status of minorities within a specific country. The

Committee on the Elimination of Racial Discrimination (CERD) meets twice a year to review State party reports as well as shadow reports submitted by NGOs.

The key issues for the UN, which remains the only source for international human rights authority, are to strengthen its Treaty Bodies, find a human rights role for its political Charter bodies and above all, to integrate human rights protection throughout its work, particularly on security and minorities rights. Although no country has a perfect record on minority rights, some countries have worked hard to implement legislation in order to promote good ethnic relations among its population. In Finland the Swedish-speaking Finns are the largest minority in Finland at 5.71 per cent of the population. The status of the Swedish-speaking Finns is exceptional compared to that of other national minorities, due to the fact that Swedish is, in addition to Finnish, an official language of Finland. In recent years, the Government has redoubled its efforts to settle the question of land ownership by the Sami, the indigenous people of Finland. Finnish, Swedish or the Sami language is taught as the mother tongue of the student, and under the new legislation, children who reside in Finland permanently, thus including immigrant children, have both the duty and the right to go to comprehensive school.

## **Need of the Hour**

No matter how effective international mechanisms might be, and they are far from being sufficient, there is no substitute for a concerted domestic initiative of implementing national obligations towards these rights guaranteed internationally. The implementation and compliance with international human rights treaties and standards are ultimately national issues and this is often lost in the midst of rapid internationalization of human rights. Good governance plays a vital role in involving minorities in societies and protecting their rights and interests. Through recognition, dialogue and ensuring participation of all the citizens of a diverse society we can form a greater understanding of one another's concerns. The media and education have important roles to play in this regard, as so does the political representatives and community leaders.

Positives action taken by some states include: legislative measures that introduce higher maximum penalties for racially motivated crimes; the use of ethnic monitoring to ascertain the number of persons of particular ethnic and national origin in various kinds of employment and the setting of targets to increase the employment of persons of minority origins in fields where they were under-represented; the establishment of new advisory bodies on matters relevant to combating racism and intolerance, including the launching and implementation public awareness campaigns intended to prevent racial discrimination and increase tolerance; and the establishment of human rights institutions and ombudspersons for ethnic and racial equality.

It is the responsibility of the State authorities to ensure that minorities enjoy the fundamental right to equality, both in written legislation and in society at large. The roles of local government, civic organizations and NGOs are important in this respect. Police, prosecutors and judges need to be more aware of what constitutes racial discrimination and racially motivated crimes and in some cases, changing the composition of police forces to better reflect the multi-ethnic communities they serve may be appropriate. It is also incumbent upon minorities to integrate themselves into their communities. Other recommendations include monitoring hate or provocative speech, promoting empowerment through education, and ensuring adequate housing and access to health care.

## **Human Rights for Everyone:**

Politically motivated statements and multifarious propaganda are spreading misconception about the oppression and leading the crisis towards a complicated ending instead of a fair solution. Whatever might be the extent of the incidents, it is clear that there is oppression on the minorities and that should be stopped immediately. All concerned should also bear in mind that a single instance of act of terrorism is enough to panic the people of a whole community, at least, psychologically. The divisive and conservative approach of the community leaders, in fact, contributes to the growth of mutual disbelief and hatred.

The mere holding of periodic elections is not the only yardstick of measuring democracy or health of a society. Religious intolerance can alone destroy the fabric of harmony from the society. Any society that claims itself as democratic should have no place for communalism. As a new century begins, each segment of our society needs to ask itself certain questions. Is it sufficiently inclusive? Is it non-discriminatory? Are its norms of behavior based on the principles enshrined in the Universal Declaration of Human Rights? Have racism, racial discrimination, xenophobia and all kinds of related intolerance been uprooted from its society. Unfortunately, they very much persist in the new century and that their persistence is rooted in fear of the other, loss of personal security. And while it is recognized that human fear is in itself ineradicable, it is also maintained that its consequences are not ineradicable.

Some countries have laws on racial equality even though affirmative action is rendered illegal by a requirement to treat all races equally. This approach of equal treatment is sometimes described as being "race-blind", in hopes that it is effective against discrimination without engaging in reverse discrimination.

The status of human rights, particularly with regard to minority rights of some developed and developing countries are discussed below:

## Brazil

Some Universities (State and Federal) have created systems of preferred admissions (quotas) for racial minorities (blacks and native Brazilians), the poor and the handicapped. There are efforts to create quotas for the disabled in the civil public services.

## China

The People's Republic of China allows non-Han ethnic groups (around 9% of the population) to be exempt from the One-child policy, and there is a quota for minority representatives in the National Assembly in Beijing, as well as other realms of government. In addition the certain State run Universities, such as the Central University for Nationalities, located in Beijing, operate on a quota system, with spots reserved for members of all of China's state recognized "Nationalities".

## Japan

Spot for universities as well as all the government position (including teachers) are determined by the entrance exam, which is extremely competitive at the top level. It is illegal to include sex, ethnicity or other social background (but not nationality) in criteria. However, there are informal policies to provide employment and long term welfare (which is usually not available to general public) to Burakumin at municipality level.

## Greece

Greece has quotas setting a lower limit for women participating in election lists of political parties for most of the election processes.

## India

Affirmative action has historically been implemented in India in the form of reservation or quotas in government positions, employment and education for lower castes and minorities.

## Macedonia

Minorities, most notably Albanians, are allocated quotas for access to state universities, as well as in civil public services.

## Philippines

State universities implement a modified version of Affirmative Action. Secondary schools, both private and public schools, are each assigned a quota on how many students from that high school are accepted for admission, in addition to each student's score during the entrance examination. This was done to address the situation wherein a majority of the university school population was composed mostly of students who came from well-off families and private schools.

## New Zealand

Individuals of Māori or other Polynesian descent are often afforded preferential access to university courses, and scholarships.

## South Africa

The Employment Equity Act and the Broad Based Black Economic Empowerment Act aim to promote and achieve equality in the workplace (in South Africa termed "equity"), by not only advancing people from designated groups but also specifically disadvantaging the others. By legal definition, the designated groups include all people of all color, white females, people with disabilities, and people from rural areas. The term "black economic empowerment" is somewhat of a misnomer, therefore, because it covers empowerment of any member of the designated groups, regardless of race. It is quota-based, with specific required outcomes. By a relatively complex scoring system, which allows for some flexibility in the manner in which each company meets its legal commitments, each company is required to meet minimum requirements in terms of representation by previously disadvantaged groups. The matters covered include equity ownership, representation at employee and management level (up to board of director level), procurement from black-owned businesses and social investment programs, amongst others.

## Europe

In Europe, the Council of Europe (CoE) and the Organization for Security and Cooperation in Europe (OSCE) provide the main frameworks for monitoring minority protection regimes. Both are inter-governmental mechanisms, although input from independent monitoring organizations is also permitted. The most relevant standard pertaining to minority rights and against which national measures are monitored in the Council of Europe (CoE) is the Framework Convention for the Protection of National Minorities (FCNM) adopted in 1995. Article 25 requires State Parties to submit regular reports every five years on measures adopted in its implementation. The CoE's Committee of Ministers (CoM) transmits state reports to an Advisory Committee (AC), established specifically to consider them. The AC is composed of 12 persons with recognized expertise in the protection of national minorities who serve in their individual capacity, independently and impartially. The AC is authorized to request further information from the state concerned, and may receive information from other sources, including independent (non-governmental) monitoring organizations and minority representatives. Upon consideration of the reports, the AC transmits its opinions to the CoE. The CoE considers these *opinions* and adopts *conclusions* on the adequacy of the measures adopted by the contracting Parties to implement the FCNM. The CoM may also adopt *recommendations* and set a time-limit for the submission of information on implementation.

In a recent study report of European Commission looked at 200 companies in four European countries and found that diversity policies brought tangible benefits. "Companies who implement diversity policies ... to encourage a mix of races, sexual



orientations, religions, physical disabilities, ages and sexes within the workplace can expect benefits in the short and long term,"

## France

The French Ministry of Defense tried in 1990 to give more easily higher ranks and driving licenses to young French soldiers with North-African origins. After a strong protest this driving license and rank project was canceled. It is called "la discrimination positive". Nowadays, all companies with at least 20 workers have to employ at least 6% of handicapped people.

## Germany

Article 3 of the German Constitution provides for equal rights of all people regardless of sex, race or social background. In recent years there has been a long public debate about whether to issue programs that would grant women a privileged access to jobs in order to fight discrimination. There were programs stating that if men and women had equal qualifications, women had to be preferred for a job. The Government agreed on the details of an anti-discrimination law in May 2006, that aims at improving the protection of minorities. The draft follows EU-standards and has passed the German Parliament in August 2006.

## Belgium

The Flemish government proposed in January 2006 a measure that will make some job opportunities available exclusively to immigrants, disabled and elderly people.

## Norway

All public company (ASA) boards with more than five members, must have at least 40 % women (can not be made up of more than 60%). This affects roughly 400 companies.

## United Kingdom

Positive Discrimination is unlawful in the UK and quotas/selective systems are not permitted. A singular exception to this is a provision made under the 1998 Good Friday Agreement which requires that the Police Service of Northern Ireland recruit equal numbers of Catholics and non Catholics. However a number of people are taking the UK Government to EU Human Rights for breaking the Human Rights Act and the Positive Discrimination Act. Today, the Scots represent about 10% of the total British population while the Welsh account for about 5% and the Irish 2%. Over the centuries the dividing lines have become blurred, Despite their long cohabitation with England, the Scottish, Welsh and Irish minorities have preserved many of their cultural traditions - food, music, dance, etc - and Scotland retains its own separate legal system, even today. Linguistic differences are also there.

The Scots, the Welsh, the Irish and the Catholics are what might be considered the "old" minorities, in contrast to the "new" minorities that have arrived in Britain since the Second World War, mainly from far-flung parts of its former empire - India, Pakistan, Africa and the Caribbean. These people have brought their own cultural traditions into

the national mix and, in many cases, their own religion - with the result that Islam is now the second biggest religion in Britain, with well over a million believers. Unlike Britain's old minorities, which are geographically based, the new minorities - mainly blacks and Asians - are dispersed throughout the country, though they tend to be found mainly in cities, where urban poverty and its resulting social problems complicate the issues of ethnicity and religion. To some extent the British authorities have been forced to pay attention to the new minorities because of occasional urban riots and various cases of discrimination that attracted publicity.

Police have made great efforts to educate their officers about minority groups and to train them to handle minority issues sensitively. The Foreign Office, whose staff used to be all white, almost entirely male and from a uniform social background (wealthy and educated at Oxford or Cambridge) has also begun recruiting people from minority groups. This effort began to pay off a few years ago when, for the first time, the Foreign Office was able to send a Muslim consular team to Mecca to assist any British Muslims who got into difficulties during the Hajj.

### **Slovakia**

The Constitutional Court declared in October 2005 that affirmative action i.e. "providing advantages for people of an ethnic or racial minority group" as being against its Constitution. This has been seen as an anti-gypsy decision immediately following Roma hunger riots, which protested curtailing of social aids in Slovakia.

### **United States**

In the United States, affirmative action occurs in school admissions, job hiring, and government and corporate contracts. Its intended beneficiaries are ethnic minorities, people with disabilities and veterans. Affirmative action has been the subject of numerous court cases, and has been contested on constitutional grounds. A recent Supreme Court ruling in Michigan against some forms of affirmative action has required some colleges to set new admissions criteria.

## **Minorities in the Islamic States**

### **Malaysia**

The bumiputra laws are a form of affirmative action meant to provide more opportunity for the majority ethnic Malay population versus the historical financial dominance of the Chinese population.

### **Indonesia**

In Indonesia, affirmative action programs give natives of Malay origin (Pribumi) preference over the Indonesian Chinese in the country.

## Turkey

Affirmative action programs give Bulgarian immigrants and other minorities preference over natives.

## Brunei

The Bumiputeras of Brunei are accorded special benefits through a variety of affirmative action programs. For instance, the Royal Brunei Armed Forces enlist only Bumiputeras.

## The Arab World

The official attitude in much of the Arab world has ignored the issue of minority rights. The existence of minorities is rarely discussed in public. The root of this attitude lies mainly in the history of the region. Most Arab states, in the form we know them today, were created during the last century and their boundaries were determined - sometimes quite arbitrarily - by imperial powers. Successive Arab governments have had to grapple with the resulting problems, attempting to weld various tribal, ethnic and religious groupings into nations.

The special Arab concern with national unity is therefore understandable, but unity is often confused with uniformity. Sweeping minorities under the carpet and pretending that differences don't exist can only lead to trouble. It produces a false sense of security that sooner or later may evaporate.

The minority issues faced by the Arab world are not unique, however. Similar problems exist even in the old-established countries and this means there are plenty of examples of successes or failures elsewhere that can be drawn upon when deciding how to deal with them.

## Bangladesh

According to the Constitution of Bangladesh, the state religion is Islam. The term 'state religion' was incorporated in the Constitution by the former military dictator cum President H. M. Ershad. The right of the minority community i.e. Hindus, Buddhists and Christians, to practice their religion is stated in Article 2A of the Constitution of Bangladesh.

There have been internal tensions since the 1960s between Bengali settlers and the tribal inhabitants of the Chittagong Hill Tracts (CHT). Some 40,000 of whom were living in camps in India until the end of 1997 as refugees. The Bangladesh government initiated discussions with representatives of the tribal inhabitants in December 1996 which resulted in Peace Accord being signed in December 1997. However, there are concerns

by some of the tribal population who consider it flawed, and would like it to be renegotiated. There has been little progress on implementing all the terms of Peace Accord, and on settling land disputes (at the heart of many of the tensions between tribal inhabitants and Bengali settlers). At the Bangladesh Development Forum held in Dhaka in May 2004 donors urged the government to fully implement the Peace Accord.

Following recommendations were made in the Peace Accord:

- Efforts in peace-building need to include the development of a fair and impartial judicial system, human rights education programs, human rights training for police and the judiciary.
- In maintaining law and order, the international human rights and criminal justice standards should be observed. No one should be arrested arbitrarily on account of peaceful political activity or peaceful exercise of the right to freedom of expression as set out in the International Covenant on Civil and Political Rights.
- Some of the main provisions of the Peace Accord, including the rehabilitation of all returned refugees, settlement of land confiscated from the tribal people and withdrawal of non-permanent army camps, have to be fully implemented.
- Native title over the land has to be recognized and local customs and culture should be upheld, as per the UN Declaration on Minorities, Article 1 which protects the right to cultural identity.
- A special independent and impartial commission should be established to investigate past human rights violations by all sides. Its findings should be made public and all those found responsible for abuse should be prosecuted.
- Economic and Social rights should be implemented for the betterment of the social and economic conditions of the Jumma people, including the right to a sustainable livelihood, the right to basic social services like health, education, housing and welfare.
- In all of the above, particular attention should be paid to the situation of women.
- Besides the law and order situation the national and international NGOs and development agencies, including UNDP can take measures to improve the economic and social conditions of the Jumma people in the Chittagong Hill Tracts. Measures can be as follows:<sup>6</sup>
- Low-cost Housing Project for the refugees and development of village roads through Food for Works program
- Agriculture and Horticulture Project
- Irrigation project
- Afforestation
- Establishment of free Medical Service Centre
- Sinking of deep Tube-well and Ring-well in the Refugee Villages

- Water-sealed sanitary Latrine.
- Establishment of Fruit wood processing Factory
- Promotion of Primary Education

It is also evident that most nations, big and small, developed and developing, have made some strides towards addressing the issues of minorities. Some of the adopted policies and methods have been successful in integrating minorities into mainstream society whereas others have been glaring failures. However, a fact undeniable remains that increasingly rights are being trampled by the so-called “war on terror” that has reinforced xenophobia and racism and seriously undermined the rule of law in the world. It is imperative to address minority issues openly and honestly, and dealing with any problems that are identified before they become serious. Real national unity is also achieved not just through avoidance of discrimination but through ensuring that minorities have a proportionate role (neither subservient nor dominant) at all levels of national life politically, socially and economically.

## Minority rights and equality in Islam

No state is free from internal strife. People belonging to different minorities, ethnic, religious, linguistic, and social groups, and indigenous tribes/communities are engaged in struggles against the state and other groups for the protection and preservation of their social, cultural, and economic rights. Their demands vary from equality and integration to regional/territorial autonomy, self-rule, self-government, and self-determination, including separation.

International discourses on human rights-minority rights promote strategies of

- Multiculturalism,
- Equality of rights,
- Limited autonomy and
- Recognition of differences.

While attempts to suppress ethnic, cultural or religious differences have too often led to violence and bloodshed, accommodation of diversity within appropriate constitutional forms has led to diversity and beneficial coexistence.

### *Multiculturalism*

Multiculturalism refers to policy of cherishing cultural diversity as a public good and making different community identities central to the self-understanding of a nation-state's identity. Multiculturalism is about setting proper terms of relationship between communities and the norms governing these claims including the principles of justice. It should be nurtured through open dialogue between the concerned parties.

Islam is a proponent of multiculturalism. Prophet Mohammad SAW, expressed an opinion that was revolutionary in Arabian society of his time: all humans have the same value. The Holy Qur'an states:

*"O mankind! We created you from a single (pair) of a male and a female and made you into nations and tribes, that ye may know each other. Verily the most honored of you in the sight of Allah is the most righteous of you. And Allah has full knowledge and is well acquainted (with all things)." (Al - Hujurat:13)*

It is clear that from the perspective of the Holy Quran, which forms the core of the Islamic tradition, the divine purpose underlying human diversity is to foster knowledge and understanding, to promote harmony and co-operation among peoples. The Almighty

did not create diversity for it to become a source of tensions, divisions and polarization in society. Indeed, whether humans recognize it or not, human diversity is a sign of divine genius / Knowledge. The verse also envisages a world in which people, regardless of their differences, are united by their devotion to the Creator. These sentiments are, in fact, echoed in another Quranic verse, in which Allah addresses humankind and affirms the principle of unity in diversity:

*“Surely this community of yours is one community, and I am your Lord; so worship me” (Al- Anbiyaa :92).*

The emphasis on the universality of the Almighty’s message is emphasized in the Quran’s fundamental teaching that Allah has revealed His message to all peoples and to all cultures;

*“...And there never was a people, without a warner having lived among them” (Surah Fatir:24).*

Although humans may have misinterpreted that message to suit their needs in creating conflicting traditions, all religions, at their core, have sprung from the same divine source and inspiration.

In Islam neither race, nor descent, nor origin, nor wealth, nor strength, nor gender, have been given preference. The best before Creator is the most righteous. So it became possible for an African, a former slave, to be the first person to call the believers to prayer in Medina. It was also possible for a woman to become an arbitrator on a market and a teacher of religion. Prophet Mohammad SAW said: *"Listen to your commander and obey, and should he be an Abyssinian slave who looks like a dried grape."* This statement aptly portrays the respect accorded to different races and ethnic origins in Islam. It also recognizes the inherent importance of multiculturalism and diversity in Islam with the prime importance on a person’s essence and righteousness. Everybody, no matter who he is, has the ability and may contribute to the well-being of society.

### *Equality of Rights*

Historically, the failure to protect the rights of minorities within states has resulted in major internal and international conflicts. Consequently, it has prompted the development of the fundamentals of the human rights law which states the principle of equality and the concept of non-discrimination. It ensures that no one is denied the protection of their human rights based on external factors like race, sex, language, colour, religion, national or social origin, birth, property, or political opinion. The guiding principle is that human rights are universal, inalienable, and indivisible. However, the enshrining of equality

before law and non-discrimination in constitutional structures and institutional practices is not sufficient to enable minorities to enjoy equal rights. Even without states invoking religion, ethnicity, or nationality to dominate and oppress, people belonging to minorities and majorities are subject to very different (unequal) conditions of enjoyment of equal rights and fundamental freedoms.

Islam however, upholds the institution of human rights in its codes of conduct. It is also mentioned in Quran that religious feelings of all people should be respected.

*"Revile not ye those whom they call upon besides Allah, lest they out of spite revile Allah in their ignorance..." (Al An'am :108)*

Respect for the "People of the Book", the believers in revealed religions, is anyhow inherent in Islam. Belief in all prophets and the revelations they received is as binding as the belief in Allah Himself.

*"Those who believe (in the Qur'an), and those who follow the Jewish (scriptures), and the Christians and the Sabians - any who believe in Allah and the Last Day, and work righteousness, shall have their reward with their Lord; on them shall be no fear, nor shall they grieve." (Al- Baqarah:62)*

So the same standard applies to all human beings: Believe and do good! Judge is and will always be the Almighty alone.

The Prophet Mohammad (SAW) said: "A command should only be followed, if it is in accordance with the rights and law." Religious minorities are protected as the Holy Qur'an guarantees them respect, a limited autonomy in jurisdiction and else equality before the law. For instance, non Muslim citizens of an Islamic state are of course free from the Islamic Zakat, the obligatory payment, that every Muslim man or woman owning a minimum amount of wealth has to pay to the poor. However, in the professional area Minorities/ non Muslims have the same opportunities as Muslims.

Islamic state has the basic right of freedom of speech. Anyone who abuses freedom of opinion, in particular freedom of the press, freedom of teaching, freedom of assembly, freedom of association, the secrecy of mail posts and telecommunications, property, or the rights of asylum in order to attack the free democratic basic order, forfeits these basic rights.

In an Islamic state Qur'an has a place equivalent to the constitution of a Western state. The Islamic law, civil law, criminal law, trade law and the like is bound by the borders of



the Qur'an and Sunnah, but is flexible in practice. It is the duty of the state to protect its citizens and their rights. Criminals are persecuted by the state and do have the right of a court trial. Moreover, non-Muslims under Islamic *Shari`ah* do possess special rights irrespective of whether they constitute a minority or a majority. Islam makes it clear that Muslims are not allowed under any circumstances to burn/ abuse holy places or books of non-Muslims or to abuse them.

One right guaranteed in an Islamic State in particular is the freedom of religion. There is sometimes a misunderstood view, that if any non-Muslim lives under the rule of Islam, he/she would be curtailed in their religious freedom. There is no compulsion in Islam to accept Islam as faith. It is a misconception to say that Islam is spread by the sword, with forced conversions. That never took place. It may be added from the practice of Prophet Mohammad (SAW) that he provided excellent facilities for non-Muslims war victims. During his time, the monks of Mount Sinai were given protection. The monasteries were protected; the monks themselves were protected from any attack or persecution. Churches could not be pulled down to be replaced by mosques or to build houses. They were seen as a place of sanctuary and protected by the Islamic state. There also existed the rights of non-Muslim minorities. They would be protected from any external threat from any other nation. But perhaps more importantly for them, they would be protected from internal threats, persecutions and prejudices.

### *Limited Autonomies*

Autonomy is increasingly being posited as a way for plural states to deal with the aspirations of minorities, especially national minorities. It is a strategy for resolving the basic contradiction between the principle of people's "right to self-determination" and the principle of national sovereignty and territorial integrity of a state. Both norms are of great value and importance. The task is to find a balance between the two. The UN has sought to balance the right to self-determination and territorial integrity by recognising the rights of linguistic, ethnic, and religious minorities and developing universal norms and covenants for the protection of these rights.

A study of the Muslim state reveals that Prophet Mohammad (SAW) was the main enforcer of the rights of individuals. When he established the first Islamic state in Madina, he extended rights to religious minorities that are guaranteed to them in the Holy Qur'an. It was established in the light the *Charter of Madina*, a real and actual social contract agreed upon by Muslims, Jews and others, stipulating that they all would be treated as equal citizens of Madina, giving the non-Muslims the right of choosing a legal system they wished their affairs be governed by, be it Islamic or Jewish law or pre-Islamic Arab tribal traditions. This confirms the principle "no compulsion in religion", freedom of expression and religious practice was open to everyone.

Non-Muslims under Islamic *Shari`ah* do possess special rights irrespective of whether they constitute a minority or a majority. This is confirmed in the following statement of Prophet Mohammad (SAW) in which he sheds light on the philosophy of human rights in Islam. Prophet Mohammad (SAW) said: "*Beware! Whoever is cruel and hard on a non-Muslim minority, or curtails their rights, or burdens them in more than they can bear, or takes anything from them against their free will; I (Prophet Mohammad) will complain against the person on the Day of Judgment.*" Here we have the highest; the most revered and most esteemed Prophet of Islam, himself being the champion for non-Muslim minorities.

In Western countries, whatever the law of the land is, must be followed without any recognition to one's personal beliefs. However, an Islamic state is much more flexible on this issue. Non-Muslim minorities, in certain matters of personal law, such as marriage, divorce, inheritance would be able to implement their own religious laws and would not be subject to *Shari`ah*-law. Muslims are prohibited from entering into manufacturing, selling and consuming alcohol. But a non-Muslim minority in an Islamic state would actually be given this right.

In an Islamic state freedom to practice religion is guaranteed and Everyone's religious feelings have to be respected. But every state has the right to limit the personal freedom of its citizens where the general feelings of the peoples' right and wrong are affected. Non Muslims are generally not obliged to follow Islamic rules, as far as they deal with personal matters. Christian citizens in an Islamic state are allowed to consume alcohol, whereas it is forbidden for the Muslim citizens. Every country has the right to set the line between allowed and forbidden according to their peoples feelings. Every state has the right to protect the religious feelings of its citizens. So does the Islamic state as long as public interest is not affected. Based on this rule a limited autonomy in jurisdiction is derived, that especially includes family law and inheritance law.

### *Recognition of Differences*

Recognition of a minority group is a crucial precondition for protecting minority rights. International conventions, declarations, and institutional mechanisms provide frameworks identifying minority rights and entitlements, but there is no consensual international definition of who or which group is the bearer of these rights.

Islam recognizes the differences among men and enjoins respect for the beliefs and values of difference races and religions. Belief in the Prophets of other religion is an article of faith in Islam. The unity of the Creator and of the mankind, call for love, patience, peace, justice and equality- these are the essence of all the religions which came through the Holy Prophets and Messengers of Allah starting from Prophet Adam (AH), Prophet Nooh (Noah) (AH), Prophet Ibrahim (Abraham) (AH), Prophet Daud (David)

(AH), Prophet Musa (Moses) (AH), Prophet Isa (Jesus) (AH), and the last Prophet Mohammad (SAW), (Peace Be Upon Them). Islam not only recognizes all the Messengers but makes no discrimination between them.

The Holy Quran says *“the Messenger Mohammad (SAW) believes in what has been sent down to him from his Lord and so do the believers. Each one believes in; (a) Allah, (b) His Angels, (c) His Books and (d) His Messengers. They say We make no distinction Between one and another of His Messengers. We hear and obey, oh! Lord and seek your forgiveness” (Al-Baqarah: 285).*

Far from denying the validity of these predecessor traditions, the Quran repeatedly affirms their essential truth, acknowledging that their message comes from one and the same Allah, and that it (the Quran) is only the latest of Allah’s revelations to affirm and confirm the revelations that preceded it. Characteristic of this affirmative and pluralistic stance is the following command to believers:

*“Say: we believe in Allah and what has been revealed to us and what was revealed to Abraham, Ismail, Isaac, Jacob, and the tribes, and in what was given to Moses, Jesus, and the prophets from their Lord. We make no distinction between one and another among them and to Him [Allah] do we submit”*  
**(Al – I -Imran: 84).**

In addition, in the Muslim state during Prophet’s time, the Jews were given a free hand to practice their faith. The interesting right that the Jews and the Christians were given because they were the main minority living under the Islamic state, was their right to have a holiday, the Jews on a Saturday, and the Christians on a Sunday. Interestingly enough, in many Western countries, up till now, Muslims are still struggling to have Friday as their public holiday. Only what they are given now in some Western countries is just an extra hour for lunch so that they can partake in their obligatory Friday Prayer. But under an Islamic state, Shariah stipulates that if a Jewish person or a Christian person wishes to have a holiday, to have time off on their particular religious day, they should be given that.

The Quran’s endorsement of religiously and culturally plural societies and the recognition of differences greatly affected the treatment of religious minorities in Muslim lands throughout history. While there have been instances when religious minorities were grudgingly tolerated in Muslim societies, rather than being respected in the true spirit of pluralism, the Quranic endorsement of a pluralistic ethos explains why violent forms of anti-Semitism generated by exclusivist Christian theology in medieval and modern Europe, and the associated harsh treatment of Jewish populations culminating eventually in the Holocaust, never occurred in regions under Muslim rule.

From the earliest periods of Muslim history we have examples of a great deal of respect for the rights of non-Muslims under Muslim rule. For instance, the fourth Caliph Ali Ibn Abi Talib (d. 661) instructed his governor in Egypt to show mercy, love and kindness for all subjects under his rule, including non-Muslims whom he declared to be “your equals in creation.” Such tolerance is later reflected in the policies of the Arab dynasties of Spain. In the deepest European Middle Ages, Muslim Spain experienced a boom of science and art, which was to enrich the culture all over Europe. It was the peaceful coexistence and cooperation of Jews, Christians and Muslims under Muslim rule that enabled this development. Such tolerance and understanding was also seen in the Fatimids in North Africa, and the Turkish Ottomans in the Middle East granting maximum individual and group autonomy to those adhering to a religious tradition other than Islam. We can also cite the example of the Mughal Emperor Akbar (d. 1605), who - - much to the dismay of the religious right wing of his time -- promoted tolerance among the various traditions that composed the Indian religious landscape.

For Muslims to participate in a multi-religious and multicultural world of the twenty-first century, it is essential that they fully embrace Quranic teachings on pluralism. Only by raising levels of religious literacy in the Islamic world will Muslims become aware of the centrality of Quranic teachings concerning “*religious and cultural pluralism as a divinely ordained principle of coexistence among human societies.*”

### *The Charter of Madina*

The example set by Prophet Mohammad (SAW) in the Madina Charter is a prime source of a complete resolution towards the establishment of peace in a multi religious and ethnic society. Increased globalization has also broadened the scope of conflict throughout the world. Modern conflicts take place between societies with widely different cultural, religious, and philosophical backgrounds. In today’s globalized world, the Madina Charter can be a source for answers to many of today’s questions, presenting approaches to solving and preventing conflicts between groups based on differences in culture and belief. The Charter, which was the first declaration of the area of Madina as a city-state, established rules of government and addressed specific social issues of the community in an attempt to put to an end the chaos and conflict that had been plaguing the region for generations. The Charter outlined the rights and duties of its citizens, provided collective protection for all citizens of Madina, including Muslims and non-Muslims, and provided the first means of seeking justice through the law and community instead of via tribal military actions.

The solutions presented in the Madina Charter can be applied to questions concerning dialogue and conflict of today’s world: the Charter was created to address problems present in and created by a pluralistic society, the main characteristic of today’s globalized system. The constitution of the Charter created a federal-type structure with an authority that was centralized in matters of state security yet provided the tribes a certain level of autonomy in social and religious issues. Prophet Mohammad (SAW) only made

final decisions in cases where tribes could not resolve disputes between themselves, and these decisions were based on the laws laid out by the Charter. The Madina city-state, while granting every citizen equal rights, protection against oppression, and a voice in the government, declared itself a brotherhood of believers, extending financial help to its citizens. Laws were also enacted to punish criminals, such as prohibiting help being given to a murderer. Finally, as prescribed in the teaching of the Qur'an, freedom of religion was guaranteed for each member of the community.

For a peaceful world, individuals must live within the boundaries of the lawfully created universe. In this modern age of science technology and globalization, the Madina Charter could be a source for answers to questions about how to live together and how to solve and prevent conflicts between groups based on differences in culture and belief. The Madina Charter represents the principles of law and good and right reason, which is higher than any individual man. On the charter, Allah's name comes first, as Allah represents the highest good and the highest principle of right reason. Thus, the Madina Charter can be a good model of ways to create and sustain dialogue in a pluralistic society, and of ways to build and conduct political and social relationships among different/ diverse groups.

## Recommendations

- **Separate Ministry for Minority Affairs**

Increased globalization spells increased interaction between people of widely different cultural, religious, and philosophical backgrounds. This heightens the probabilities of conflict between minorities and majorities and amongst minorities of various types. To resolve the increasingly complex issue of minority the Government should form a separate Ministry of Minority Affairs committed to the concerns of minority rights. Such conscientious effort by Government is essential to attain peaceful cohabitation of people from multiple cultural, religious and ethnic backgrounds.

- **Social Context**

Beyond individual rights protecting a minimum standard for minorities by international law, sufficient space should be left for the adoption of national policies adequate to the particular situation. This may include teaching of the minority language in government schools where there is sufficient demand, but it should not lead to separate teaching of the general topics in separated schools. If possible and not too expensive, minorities should have the right to use their language in courts or in contact with administrative agencies. There should be a chance for minority topics in public broadcasting and television and some minority representation on the boards of major corporate houses. There should be a chance for minority representation either through political parties or by special voting provisions. Furthermore, where necessary, there should be legal provisions against the discrimination of minority members in housing, employment and public facilities, but no quotas which reinforce ethnic consciousness.

- **Significance of Religious Leaders and Imams**

Developing relations with leaders of minority communities and consulting them on current and forthcoming issues can be essential proactive measures towards addressing minority issues. Religious leaders and Imam of every respective area may have weekly tea meetings with minority people whereby they strengthen their interpersonal relationships and enhance their understanding on the concerns of minority. Such gatherings may provide the platform for minorities to voice their concerns and grievances. The majority leaders may then help resolve these conflicts themselves or pass on the message to appropriate authorities. It is stated in the Holy Quran:

*“We sent not a Messenger except (to teach) in the language of his (own) people, in order to make (things) clear to them. So Allah leads astray those whom He pleases and guides whom He pleases and He is exalted in power, full of wisdom”*  
**(Surah Ibrahim: 4)**

- **Role of Intellectual Community**

Minority issues are complex issues with numerous dimensions and have the ability to make or break the stability of a nation. The intellectual community should come forward and involve their resources in resolving minority issues of a nation. Intellectuals may have workshops with minorities to enhance their understanding of minority concerns. They may also conduct roundtables and seminars to raise awareness on minority issues with government and non-government officials and the general public. They may also set up monitoring cells whereby they study and keep tab of the factors affecting minorities and channel resources in resolving them. Moreover, it is important to address minority issues openly, in public. Anti-discrimination laws are essential, but they have to be accompanied by other action such as awareness training. Employers also have a responsibility to safeguard against discrimination in the day-to-day workplace, or in their procedures for recruitment and promotion. Unfortunately, there is no simple one-off solution: minority issues have to be addressed from many different directions and kept under permanent review.

- **The Essential Role of the Media**

The press and media can play an invaluable role in sensitizing the general public on the vital minority issues and raising awareness among appropriate authority. It can also be used for disseminating the findings of the vast number of studies and researches undertaken on minority issues.

- **Teachings and Guidance of Respective Religions**

Globalization is possible if the necessary steps for attractive citizenship are provided for minorities in every country and the majority group should solve the problem of minorities according to the minority's religion and guidelines set by respective religion and/or their prophets. Laws have to be realistic and diligently implemented. Denying the existence of problems does not necessarily eliminate them and practical solutions are the need of the hour. An effective approach seeks to achieve a sustainable balance between the demands of national unity and the rights of minorities, and between integration and multiculturalism.

- **The Importance of Conscience & Inner Essence**

To address the issues of minority, one must empathize their conditions with the heart as (**both inner emotional consciencesness and knowledge**) well as the head. Study of the lives of the companions of the Prophet (SAW) has ample guidelines that through dedication, commitment and sacrifice one can alleviate the sufferings of minorities and help them lead better lives.

- ***Madina Charter - a Practical Guide to Minority Conflicts (to resolve)***

Exercise of modern approach to Prophet Mohammad (SAW)'s guidelines and teachings regarding respect for the rights of minorities can lead to resolution of conflicts and peaceful coexistence peoples of multiple races, religions and ethnic origins.

In today's globalized world, the *Madina Charter* can be a source for answers to conflicts between groups based on differences in culture and belief as it clearly outlined the rights and duties of its citizens, provided collective protection for all citizens of Madina, including Muslims and non-Muslims, and provided the first means of seeking justice through the law and community instead of via tribal military actions. The Charter granted every citizen equal rights, protection against oppression, and a voice in the government, declared itself a brotherhood of believers, enacted laws to punish crimes and extended financial help to its citizens. It also prescribed freedom of religion for each member of the community. Thus, the *Madina Charter* can be a good model to create and sustain dialogue in a pluralistic society, and to build and conduct political and social relationships among different groups.

- **Holy Quran**

While the focus lies on preserving the distinctive needs and wants of different minorities one should not loose focus on the oneness of mankind and the universal demands for preservation of their social, cultural and economic rights. Allah has created one mankind and there is no majority and minority issue in the eyes of the Holy Quran. We should always remember the unity of mankind as conveyed in the following verses of the Holy Quran.

*“O mankind! Be dutiful to your Lord, Who created you from a single person (Adam), and from him (Adam) He created his wife [Hawwa (Eve)], and from them both He created many men and women and fear Allâh through Whom you demand your mutual (rights), and (do not cut the relations of) the wombs (kinship). Surely, Allâh is Ever an All Watcher over you.” (Al - Nisaa :1)*

*“Mankind were but one community (i.e. on one religion - Islâmic Monotheism), then they differed (later), and had not it been for a Word that went forth before from your Lord, it would have been settled between them regarding what they differed.” (Surah Yunus:19)*