



CIVIL RIGHTS OF MINORITIES IN INTERNATIONAL LAW

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Article history:		Abstract:
Received:	25 th January 2024	<p>The negative character is inherent in the rights of minorities. These rights only require that they not be infringed by governments. In many cases, especially under dictatorial governments, minorities are exposed to harassment, persecution, and the confiscation of rights and freedoms. Therefore, here the negative character plays an important and fundamental role in the field of determining the rights of minorities. Rights are inherent to the human being and are determined by the international community, internal legislation, and international legislation. All constitutions include a provision for human rights. Although the civil rights of minorities are stipulated in the constitutions, they are still only a dead letter and have not reached the stage of actual application of the rules and provisions of the constitutions in many countries. Therefore, minorities continue to suffer from being deprived of their civil rights in many countries.</p> <p>There must be real guarantees that guarantee the rights of minorities, such as the establishment of a legal committee whose mission is to monitor the extent of the actual application of the principles and provisions of applicable constitutions and laws that stipulate the rights of minorities.</p>
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INTRODUCTION

The negative character is inherent in the rights of minorities. These rights only require that they not be infringed by governments. In many cases, especially under dictatorial governments, minorities are exposed to harassment, persecution, and the confiscation of rights and freedoms. Therefore, here the negative character plays an important and fundamental role in the field of determining the rights of minorities. Rights are inherent to the human being and are determined by the international community, internal legislation, and international legislation. All constitutions include a provision for human rights.

However, the problem lies in the actual application of these rights and the amount of freedom for minorities stipulated in these constitutions. In many cases, they remain ink on paper and minorities continue to suffer from being deprived of their most basic rights stipulated under the provisions of the constitutions.

The matter may not stop at depriving minorities of their rights, but may go beyond violating the rights and freedoms of minorities, harming them, and exposing them to killing, displacement, and starvation. This is the most horrific thing that minorities are exposed to, in terms of violating their civil and political rights.

The research problem lies in investigating the extent to which governments follow international standards to protect the rights of minorities, the role played by international agreements and instruments in the field of providing protection for minorities, and the extent of states' commitment to them.

This is the problem that the research set out to solve.

The descriptive analytical approach was adopted by describing the legal texts that dealt with the research topic and analyzing them with sound logical legal analysis.

Based on the above, we will divide the research as follows:

The first topic: general civil rights for minorities.

The second topic: special civil rights for minorities.

The first topic

General civil rights for minorities

Civil rights are rights that accompany the person as a member of society. Every person enjoys civil rights for himself, and there is no need for international and internal law to arbitrate between the individual and the government in this area under democratic governments that recognize these rights and grant them to individuals and do not place obstacles in their way, unlike dictatorial governments. Which prevents its members from exercising their most basic rights, even though it stipulated these rights in its constitutions and internal laws and worked to sign and join many international treaties in this field?

These rights are established in accordance with the provisions of the laws. They are rights acquired in accordance with these laws, and their application is only a matter that reveals them. Granting minorities their rights is an application of the principles and provisions of legislation enacted by the governments themselves in accordance with their own laws and legislation, and the matter does not cost them any material, moral, or human costs. Rather, it is an application of the law, granting minorities their rights, and not distinguishing between them and the rest of the citizens, which is called the majority. Therefore, we find in countries that follow democratic systems the application of these laws, which in turn is reflected in the political stability of the state, the cohesion of society, and the lack of discrimination between its members, in contrast to Those countries that prevent minorities from exercising their rights increase political unrest and cause strife among members of society.

Based on the above, we will divide this study into the following two topics:

The first requirement: the right to life for minorities.

The second requirement: the right to respect the private property of minorities.

The first requirement: The right to life for minorities

These rights are general rights that are shared by all individuals present on the territory of the state. There is no difference in this field between minorities and citizens and between citizens and residents. These rights are closely related to human rights, as they are inherent in the quality of being human. Anyone who enjoys this characteristic is included in these rights and has the right to enjoy them. He may be deprived of it.

Therefore, the United Nations Charter of 1945 paid great attention to human rights regulation and protection, as it included many principles for the protection of minorities in particular, in addition to the Universal Declaration of Human Rights of 1948, which stressed the necessity of providing protection to a person simply because he is a human, and no discrimination is permissible in this regard. The field between individuals is because of their color, gender, language, or belief [1].

Although general civil rights are rights inherent to humans, as every individual has the right to enjoy these rights and may not be deprived of them, the fear remains that minorities will be deprived of their rights, as they are the weak group and may be exposed to persecution and deprivation of these rights under dictatorial governments, and this is considered The right is one of the most important and sublime human rights. A person may not be deprived of this right arbitrarily, except in accordance with the provisions of the law, and he may not be persecuted in this regard.

The International Covenant on Civil and Political Rights of 1966 affirmed that the right to life is an inherent right of the human being and may not be deprived of this right, and the law must provide protection for it [2].

This explains to us the interest of the international community in this right, as it worked to protect it and provide ways to preserve it. This interest was crowned with the issuance of the Universal Declaration of Human Rights of 1948, which put this right at the heart of its attention and emphasized its protection and the prevention of transgressing on it or depriving people of it [3].

The international community has also contributed significantly to preserving this right, as it emphasized in the United Nations Declaration on the Rights of Minorities of 1992 that states must take all measures that enable minorities to enjoy their rights and freedoms [4].

At the level of constitutions, the Iraqi legislator stated in the 2005 Constitution that applies the person's right to life and his right to enjoy freedom and security, and he may not be deprived of it except in accordance with the provisions of the law [5].

The second requirement: The right to respect the private property of minorities

Individuals in general have the right to have their private property respected. Everyone must respect the private property of individuals, and this right is stipulated in all constitutions. No constitution is devoid of stipulating this right and emphasizing commitment to it, and punishing those who violate it. These constitutions have laid down the sufficient and necessary means to protect private property. In this area, it did not distinguish between the minority and the majority. The standard followed in this regard is ownership. Whoever has proven ownership of a specific thing is the owner of it and receives the necessary legal protection to prevent infringement of this ownership. Any infringement of this ownership represents a violation and breach of the rules and provisions of the Constitution that places the perpetrator subject to legal accountability [6].

However, the danger may arise in the failure to properly implement legal texts, as governments may deliberately deprive minorities of their rights in this area and may issue actions that represent a clear and explicit violation of the private property of minorities [7].

International agreements have contributed to the field of protecting private property for minorities, as they have established the general provisions necessary to protect this right and prevent infringement on it by individuals and governments. At the forefront of these agreements is the International Convention on the Elimination of All Forms of Racial Discrimination, issued on December 21, 1965, where under the provisions of its fifth article, it affirmed the sanctity of private property of individuals and the inadmissibility of violating it. Any person who enjoys private property is subject to the legal protection stipulated for it [8].

At the level of constitutions, the Iraqi Constitution of 2005 stipulated that the home was inviolable, that it was not permissible to be violated, and that it was not permissible to enter or search it without obtaining permission from the competent authorities, and pursuant to a judicial order issued by the court competent to do so.

Although some international human rights agreements restrict private property in order to achieve public benefit, in the event of a conflict between public and private interests, the former must prevail over the latter in exchange for compensation to the owner of private property, because it includes the interest of a large segment of society and its benefit accrues to everyone. In this case, this is not considered a violation of the sanctity of private life.

Private interest is sacrificed because its benefit and interest are limited to a specific and limited group of individuals, and this is confirmed by the Additional Protocol attached to the European Convention on Human Rights of 1950, which gave the state the right to expropriate private property for the public benefit, through governments issuing special legislation for this purpose, and in this The situation is that private property is expropriated for public benefit pursuant to legal legislation and government instructions that have a legal, official, and formal nature. Therefore, this is not considered an attack on individuals' property. Here, a comparison is made between the two interests, the public and private interests, and certainly the public interest is preferred, because it benefits the public to a not-insignificant group and segment. It is significant among members of society, including the owner of the private interest, as the benefit will accrue to him twice: once through the compensation that the state grants him in exchange for the expropriation of his private property, and the second time is the benefit that will accrue to him and the benefit he reaps from establishing the public utility [9]

The second topic Special civil rights for minorities

This group of rights is specific to minorities, distinguishing them from other majorities. They are rights created for the benefit of minorities, and these rights are the most important thing that distinguishes the latter. The International Covenant on Civil and Political Rights affirmed these rights and defined them by language, culture, and religion. Every minority has its own language and its own culture. There are some minorities that have their own religion that distinguishes them from the majority or from other minorities, as it is stipulated in this area that: "It is not permissible, in countries in which there are ethnic, religious or linguistic minorities, to deprive persons belonging to the aforementioned minorities of the right to enjoy their own culture, or professing their religion, performing their rituals, or using their language, in association with other members of their group" [10].

Based on the above, we will divide this study into the following two sections:

The first requirement: the right of minorities to use their own language.

The second requirement: The right of minorities to declare their religion and practice their own religious rituals.

The first requirement: The right of minorities to use their own language

In this field, the United Nations Declaration on the Protection of Persons Belonging to Minorities within the State of 1992 defined the rights of minorities in addition to the rights mentioned in the International Covenant on Civil, Cultural and Economic Rights of 1966 and the right to establish specialties, as it gave them the right to enjoy their own culture. And their right to effectively participate in the cultural, religious, social, and economic fields, in addition to actual participation at the national level [11].

Based on the above, we will divide this requirement into the following two branches:

First branch: The right of minorities to use their own language

In addition to the fact that language is a means of communication, it is a cultural and civilizational heritage of nations and peoples. It is the right of every people or nation to be proud of its language and to preserve it. This applies to the minority, as it has the right to speak in its original language, and it is not permissible to deprive it of that. Language is one of the advantages of the minority over others, as it has Their own language, which they must be allowed to speak and not be restricted in this field and their right to do so should not be violated. They have the right to speak their original language with each other, or use it in the field of radio, journalism, and television, in addition to their right to establish their own schools and teach in their language [12] .

In this regard, the 1989 Children's Convention affirmed the right of minority children to speak their own language and enjoy their own culture, and they may not be deprived of this right.

Language is one of the most important means by which the minority expresses its ideas and opinions among its members, in addition to being an integral part of their culture and civilization and one of the common factors between them. This justifies the importance of the language to them and explains the great interest of the international community in the language and its keenness for the minority to obtain its right to this aspect has been addressed and emphasized in international instruments for the protection of minorities. Language is essential for the development of

personal identity and is the main component among the components of minority identity. Therefore, this right must be preserved and governments must be obligated to activate it and not deprive minorities of it [13].

The researcher believes that language is an essential component and an important element of the culture and civilization of any people, and this explains to us the great interest of the international community in language, and its insistence and emphasis on the necessity of making room for minorities in order to allow them to speak their language and preserve it, because this right is directly linked. With culture and identity, depriving them of this right means obliterating the features of their identity and civilization.

Second branch: The right of minorities to enjoy their own culture

Minorities have a special culture that distinguishes them from other minorities, and from the majority, and this culture is formed due to geographical or historical factors, so one of the most important rights of minorities is to practice and preserve their own culture, and it is not permissible to deprive them of this right or restrict them in this aspect [14].

This is confirmed by the United Nations Declaration on Those Who Belong to Minorities of 1992, which affirmed the right of minorities to enjoy their own culture and to practice their own religious rituals through the use of their own language [15].

The International Covenant on Political and Civil Rights of 1966 also affirmed the inadmissibility of depriving minorities of enjoying their own culture, or preventing them from practicing their religious rituals, or using their language [16].

The researcher believes that culture includes arts, literature, customs and traditions, as they collectively constitute the identity of minorities, so preserving them is considered preserving identity. Therefore, the international community has been concerned with preserving the identity of minorities and not allowing them to be attacked, harmed, or restricted in this regard.

The second requirement: The right of minorities to declare their religion and practice their own religious rituals

This means that a person should enjoy complete freedom to practice religious rituals or embrace the religion of his choice, or the doctrine in which he believes. It is not permissible to impose a specific religion or principle on people by force or coercion.

It is the right of any person to enjoy complete freedom in order to practice his religious rituals. The tolerant Islamic law has recognized the right of the minority to practice its own religious rituals, drawing inspiration from its provisions from the Holy Qur'an and the noble Sunnah of the Prophet. When God (Glory be to Him) imposed religion on people, He did not impose it on them. By force, as stated in the Almighty's saying: There is no compulsion in religion. Right has become distinct from error. Among them is the Almighty's saying: And say, "The truth is from your Lord." So whoever wills, let him believe, and whoever wills, let him disbelieve. Indeed, We have prepared for the wrongdoers a Fire whose curtains will surround them, and if they seek help, they will be helped with water "The respite disfigures the faces. What an evil drink, and how miserable is a companionship? .

A person must be granted the freedom to think, believe, and embrace the religion in which he believes and is convinced. He may not be forced to believe a particular religion, or blamed for embracing a certain belief or religion, and this is what was affirmed in the Universal Declaration of Human Rights of 1948.

The International Covenant on Civil and Political Rights of 1966 dealt with these rights with some emphasis, as it stipulated in Article (18) of the following:

1. Every human being has the right to freedom of thought and conscience, and this includes his freedom to profess a religion, his freedom to embrace any religion or belief he chooses, and his freedom to manifest his religion or belief through worship, performing rituals, practicing, and teaching, alone or with a group, in public, or alone.
2. No one may be subjected to coercion that would prejudice his freedom to profess a religion, or his freedom to embrace any religion or belief of his choice.
3. A person's freedom to practice his pure religion or belief may only be subject to restrictions imposed by law that are necessary to protect public safety, public order, public health, public morals, or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to respect the freedom of parents or guardians when they are present.
5. To ensure the religious and moral upbringing of their children in accordance with their own convictions.
6. Based on what was stated in the above paragraph, it must be recognized that every individual who belongs to the minority has the right to embrace the religion he desires and practice his own religious rituals despite the difference between this religion and the religion of the majority, but in many cases minorities are subjected to persecution and ill-treatment by Tyrannical governments or by the majority in them in order to restrict them to prevent them from practicing their religious rituals.

Despite this, there are some cases in which some restrictions are deliberately imposed on the practice of religious rituals for regulatory purposes that aim to maintain public security and internal order in the state. In this case, this is not considered an arbitrary measure because it was done in accordance with the laws, instructions, and regulations in force in the state to achieve general goals.

1. CONCLUSION

It goes without saying that our topic came under the title "Civil Rights of Minorities in International Law." At the conclusion of this research, we reached many results and recommendations that will not be a repetition of what came before, but rather are a summary of what we have reached, which is represented by the following:

First: the results

We reached many results, the most important of which are:

1. Although the civil rights of minorities are stipulated in the constitutions, they are still a dead letter and have not reached the stage of actual application of the rules and provisions of the constitutions in many countries. Therefore, minorities continue to suffer from being deprived of their civil rights in many countries.
2. Although many countries have joined international agreements and instruments that guarantee the rights of minorities and granted them their full rights, they have not adhered to their principles and decisions, and the result of that is depriving minorities of their rights.
3. Whether granting or depriving minorities of their rights depends on the political situation of countries and the system of government followed. In the event of political unrest, wars, revolutions, and uprisings, minorities are exposed to many violations, even if this is unintentional. As for the system of government followed, under the systems In democracy, minorities obtain their rights smoothly and regularly, in contrast to the system followed under dictatorial regimes.

Second: Recommendations

In light of our findings, we recommend the following:

1. There must be real guarantees that guarantee the rights of minorities, such as establishing a legal committee whose mission is to monitor the extent of the actual application of the principles and provisions of applicable constitutions and laws that stipulate the rights of minorities.
2. The necessity of having international guarantees that bind countries that have signed international agreements and instruments related to minority rights, such as the presence of an international body that supervises the actual implementation of countries that have joined international agreements and instruments.
3. The necessity of raising political thought and awareness so that minorities are granted their rights automatically and with complete ease, integrated into society and not deprived of their rights, and create a feeling in them that they are an integral part of the people.

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