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Review article

The process of personal status, Iranian human rights law in schema imamiye

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ABSTRACT

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Religious minorities

Religious minorities, refers to a population of less than the rest of the country, and members of different features strong, religious, or linguistic position. Typical sense of unity and solidarity of interests, in order to preserve the culture, traditions, religion or language of their own. In various international instruments, and most constitutions, religious minorities are recognized, also in the constitution of Iran, on several principles, a religious minority or religious groups are recognized. One of the major problems in minority, is the governing law of personal status, primarily in different countries, two factors (residence, nationality) will be considered. Noting the developments in international relations, the practical issues of minorities in local and international peace and security, practical and effective protection of human rights, and evolution at the United Nations, the constructive approach, a positive and peaceful, rights minorities as a key factor in the direction of government policy, national and international dimensions accordingly.

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1. Introduction

Legally, only one can be the right and duty, and the right side is another interpretation, or natural or legal person. Natural person, that person is also called, is the human person. Human subjects during slavery, sometimes a matter of right, and the tier objects, not the right, but with the abolition of slavery and other human rights fails,

it is always the truth, and can support the legislation, and decisions to maintain law and individual rights, have been adopted, would have. In fact, only a natural person, that person has the right and duty, and social rules to regulate the relations between human beings and their rights have emerged, but people do not live alone, and require cooperation and synergies. Some individuals, for-profit and nonprofit reach its objectives, the groups comprise capital and its activities are focused on these groups. Law to these groups, which are formed according to the prescribed conditions, an independent character is allowed. The group, which can be as individual human beings, have the name and residence and property, and the right of return, called entities. So, we can say that is a legal person, group of persons, who have a common interest, or part of the property, which are dedicated to a specific purpose, and the law recognizes their right hand and their independent character places. The topic of personal status, the status of the individual are discussed. On the other hand, in many countries, with the rise of government agencies that are charged with the duty to enact and enforce the law, always a bunch of people there are, the circle would be overthrown, and because of their religious affiliation, language, race, etc, have no role in the creation of the state. The rights of the people, the so-called minorities, human rights issues, and the controversy that, during the drafting of the Universal Declaration of Human Rights, as well as the major challenges facing the state. What is the subject of this paper, the personal status rights of religious minorities in Iran.

2. Section I: religious minorities

Minority groups are included in the general words, these cultural traits, social behavior and the specific practices that vary with culture, norms and traditions is a land where the majority of people, where they live. However, in this context, the definition has been accepted by the public, and the validity of an international standard to be there, but we can say, "It is said that a minority group of people, a smaller population than the rest of the country, or state country, and the rule is not effective presence. The group properties of different ethnic, religious or linguistic enjoy, and to keep those traits are correlated. Minority groups on the basis of residence, or an alien being integrated, and its transposition in their residences, the protections contained in the minorities enjoy "(Azizi, 2006). According to the definition, the minority is the group that did not participate in the governance of the number, the less the rest of the population, and its members, while a citizen of the country, features ethnic, religious or language, with population is different from other countries, and possesses a sense of interest and solidarity in order to preserve the culture, traditions, religion or language are (Taranabri, 2000). Based on this definition, wherever these elements come together in a group, that group, in terms of international law, "minority" is considered, and applies to "minority" is not subject to the identified states. "Minority", in Islamic jurisprudence, the "minority" in the law is somewhat different. In Islamic jurisprudence, linguistic or racial minorities, not because of Islam, ethnicity and language can not be triggered advantage.

Raised in a Muslim minority, which is the only religious minority, is of three kinds: People of the Book, namely Jews and Christians like Scripture, which usually deal with them as People of the Book is like the Zoroastrians, and the batch in any of the categories above can not, like the star-worshippers, those who believe and rituals of Islam are invalid (Sheikh Toosi, 2000). As can be seen, apparently in the minority, "jurisprudence" minority "rights" than the way I connected public and private is a non-Iranian Muslims in terms of rights, and minorities are alienated, but in terms of law, not the minority, but Jews Iran's religious minorities are out of sight. But from the perspective of rights, there may be a minority. People Book or People Edema, the people are non-Muslims, religious books, they are mentioned in the Quran. If they levy taxes and regulation, to pay a bit. Muslims can live in Islamic countries, and to live in Islamic law. In other words, the tax paid as ransom Islamic State is obliged, to protect life and property from the book. In Islam, ethnic and linguistic minorities have since the abolition of those properties, and ethnic and linguistic concessions that will lead to excellence and pride, one of the main objectives Islam, in order to eliminate injustice and discrimination is wrong. Islam as a religious minority that we wait until the conflict with Islamic rule, many social rights, such as freedom of thought and practice their religion enjoy. In other words, minorities in Islam place of worship, personal status, education, and even judges, are subject to their own religion. Respect to the followers of other religions, and their rights and their enjoyment of individual and social rights, and freedom in performing their rituals, Muslims have accepted from the outset, and in their relations with the followers of other religions, they respect have. The concept and the term minority is also used in various international documents, but in none of them, it is not a definition. For example, Article 27 of the International Covenant on Civil and Political Rights, which for the first and last time, on a global level pay for minorities to enact specific rules, without entailing definition is the concept of minorities, the essential basis for real equality of

minority groups established. According to this article: "In countries where ethnic, religious or linguistic exist, the rights of persons belonging to such minorities in the enjoyment of their culture, and religious practices or special language of their own, should not be ignored." Due to changes in the course of international relations, the practical issues of minorities in local and international peace and security, effective protection of human rights at the UN and evolution in approaches to constructive, positive and peaceful minority rights, the theme of minorities as a major factor in the direction of government policy on domestic and international dimensions accordingly. Hence, it is always a problem in politics as an important subject in the field of political mobilization, and resource for domestic and international conflict, respectively (Mason, translation: Institute for Strategic Studies, 1998). Part II: Personal status of religious minorities, from the perspective of constitution Constitution of the Islamic Republic of Iran, primarily from the recognition of ethnic, national and linguistic tone is struck, and based on the general principle of non-discrimination, including in the nineteenth and twentieth principles to guarantee the equal treatment of persons irrespective of ethnic, religious or Language to which they belong, and the scheme is expected, as in the nineteenth read: "The people of Iran, whatever the ethnic and tribal it is, enjoy equal rights and race, color, language, etc., will result in a score." In the twentieth says: "All citizens, both women and men have equal protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria are." Indeed, the principle of equality as an integral component of the UN Charter, the Universal Declaration of Human Rights, an independent source of international public law, as part of customary international law, and the principles and rules of international law is binding (Shemshadi and Aghayi, 2000). Iran's constitution in this regard, at first glance the story with international implications of important documents, and it should be remembered that the Iranian government, one of the original signatories of the United Nations, the Universal Declaration of Human Rights, and the In May 1975, the International Covenant on Civil and Political Rights, Economic, Social and Cultural Rights (1966), signed, joined them, and to observe and perform the terms and obligations they have undertaken.

But although, in general support of the international system of human rights and the universal principle of non-discrimination, ensure equality of all human beings, but the non-discrimination is not only practically alone, fulfill all the demands of people belonging to minority groups to ensure does not adopt formal approach, the right to equality and non-discrimination, perhaps as a barrier to achieving the protection of minority rights act. If only the same treatment of equality in rights and duties of individuals is known, and the specific characteristics of the unfortunate distinction of minority identity and group solidarity they will be overlooked, in this case, only part of the claim of individuals, they funded. Exclusion of minorities, the rights and the government, to maintain or improve the properties of minorities, including language, religion and culture of their own, and a substantive violation of the equality of citizens (Zoleyn, 1994). Section III Division religious minorities in the constitution As in the previous topic review, the criteria for determining the minorities, the constitution is Article XIII, pursuant to which: "Zoroastrian, Jewish and Christian, are the only recognized religious minorities about their religious law, freedom and personal affairs and religious education, act according to their faith." Thus, despite the twelfth principle, the followers of other Islamic sects, including the Hanafi, Shafei, Maleki, Hanbali, and Zeydi rights and freedoms accepted grants to religious minorities, their constitution as a religious minority, is not detected. But the sum of these principles, it seems, other religions can be informal, as well as a number of religious minorities. Therefore, a whole division, or religious minority status in terms of the constitution have been classified into two groups. Minorities who twelfth and thirteenth basis, are recognized around the law, religious freedom have earned and minorities out of the scope of the principles, are not recognized, and the government quarter and the Muslims are obliged to respect ethics, Islamic justice and equity, human rights and is known to them. Part IV: The law governing the personal status of religious minorities In civil law countries, the public nature of the land and laws. The legal system of Iran, "all inhabitants of Iran, including the interior and foreign nationals, be submissive to Iranian law, unless the rule has an exception." (Article 5 of the Civil Code) Article 6 of the law including laws, something that, as a general principle to lay down rules about the Iranian affair is discussed. According to this article: "Laws relating to personal status such as marriage and divorce, and minority individuals heir, even though in the case of all Iranian nationals residing abroad may apply. However, in view of the law relating to personal status, often associated with religious rules and regulations, and religious and religious diversity, is the reality of society, the legislator recognized religious minorities, and predicted rates, and certain conditions for them to exercise their rights effectively, is engage. As per Article XIII of the constitution in this regard are: "Zoroastrian, Jewish and Christian, are the only recognized religious minorities, who, about the law on their religious freedom, and in his personal affairs and religious education, act according to their faith." So the general rule, and the

exception contained in Article 6 of the Civil Code, the provisions of special religious rituals, the followers of the Shia in Iran's ruling, and persons belonging to the minority, are free of the law, procedures, practice their religious rites and ceremonies, and the personal status regulations are normally in their faith. Although the constitution explicitly religious minorities, did not recognize the words, but their meaning has been identified, and some evidences of these groups, as in other religions, Islam, the official religion of the Shiites Duodenal, in principle, Twelfth, the area of religious freedom, religious minorities recognized in Article XIII for, for the followers of this religion, law, and has stated that, "the followers of these religions (including the Hanafi, Shafei, Maleki, Hanbali, and Zeydi), in religious ceremonies, in accordance with their own jurisprudence free, and in religious education and personal status (marriage, divorce, inheritance, and wills) and related litigation in courts, have recognized ... "Thus, the fact that, from the point of view of the constitution, and inspired Imami jurisprudence, not only religious minorities, religious minorities as well as in their personal affairs are subject to the rules and regulations of their religion.

3. Conclusions

The concept and the term minority, although in various international instruments, and most constitutions, the constitution of the Islamic Republic of Iran is reflected in the work, but in none of them, it is not a definition. Constitution also speaks of a religious minority has not expressed explicitly, but freedom of action within the limits of Article XII, and XIII, including the provisions for Islamic religions Non-Shia Jafari, recognized, indicating that the concept is identified. Thus, in a general division can be religious or religious minorities, have their place in the constitution, may be classified in two groups: minorities who XII and XIII of the principles, recognized, and about the , have religious freedom and minorities who are outside the scope of these two principles, are not recognized and the fourth, the government and Muslims, are obliged to respect ethics, Islamic justice and equity, human rights, than they know 's. To determine the governing law of personal status, the law of nations, usually domicile and nationality factors, will be considered. Some states accepting the residence, the personal status of individuals, subject to state law have their residence, citizenship, others preferred the government as having had an affair Iran is a country band, using the criterion of citizenship, personal status of individuals, subject to government considers them. Article 6 of the Civil Code, as a general rule expressed in these states: "Laws relating to personal status, including marriage, divorce and personal capacity, and the inheritance of all Iranian citizens, though, are resident abroad, will be the presenter." The exception to this rule, the Iranian Shia religious minorities, 12 and 13 in accordance with the principles of the constitution, and the single article, let Iranian Shia observance Non-Shia, enacted in 1933, are themselves subject to law and regulations. Prior to the adoption of the constitution of the Islamic Republic of Iran, the Iranian civil law system based on Imami jurisprudence established in 1933 in a single article called, "Let Shia Iranians observe Non-Shia ", adopted by the courts requires that, in the case of the Iranian Shia Non-Shia, rules and customs of their religion, to run. Seems to be a general sense of religion in this single article, the legislator has, and therefore the phrase refers to public Non-Shia Iranians, indicating the Religions of the Book (Zoroastrian, Jewish and Christian), and also includes Non-Shia religions, as religions Four Sunni (Hanafi, Shafe'i, Maleki and Hanbali), and is Zeidite and Esmailiah. Such is the quality of jurisprudence unknown acts and rituals dedicated followers of these religions (in the narrow sense), the principles of the constitution twelfth and thirteenth, and otherwise in accordance with the provisions of Article Directories 1312 single, clear and exact terms explained will. Solutions Act of 1933 single article about Iranian Non-Shia permit compliance, and rules 12 and 13 of the constitution, obey the principle of non-acceptance or Non-Shia Muslims, their religion, the rule of law, and litigation matters relating to personal status, corresponds to the solution and the overall attitude of Islamic Jurisprudence. This attitude and approach, based on some verses of the Qur'an, hadith estate and legal rules, which are based, in general, and the source sentence introduces criteria. Apart from the above, the most important documents submitted for claims relating to personal status of non-Muslims, their religious rules, rule jurisprudence "obligation" is. Although some researchers have considered the consensus of the documentation required by the rule, but the main reason for the rule requiring real traditions of the infallible Imams.

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