



## MINORITIES AND POLITICAL RIGHTS: AN ANALYTICAL STUDY OF ICCPR AND ISLAMIC DOCTRINE

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### **Abstract**

*Human Rights are the oldest phenomenon in the world that develops with the passage of time. The basic idea of human rights was the right to live, liberty and property. But now, human rights can divide into many categories such as civil rights, political rights, social rights, economic rights, religious rights, cultural rights and many more. This article is about the understanding of political rights in the concept of western human rights and Islam. This article further focus on te political right of minorities, especially religious minorities. For this study, secondary data and techniques of data analysis were used.*



**Keywords:** Human Rights, Political Rights, Minorities, Islam.

### **Introduction of Human Rights**

The phenomenon of Human Rights as long since the age of human beings. When the first community or group of people lived together and respected each other boundaries, the first humanitarian rights took place. According to John Locke, Human Rights exist in nature or nature gave the rights to humans. According to him, every living person inherits three fundamental human rights. These rights are the right to live, liberty, and property. With the passage of time many other rights have become part of the list, such as freedom of opinion and expression, right to work and education, right to elect a leader, right to religion and many others. Every single person has inherited these rights regardless of their gender, nationality, ethnicity, race, caste and creed (Human Rights, n.d.).

Human rights are morals and ethics that are recognized and protected by society, Government, and the State. These rights give dignity and respect to humankind and develop mutual respect and understanding between people. These rights also discuss the relationship between man and a state. Human rights are also human duties performed by humanity and the Government to secure the status of a person. And no one has the right to violate the fundamental rights of another person; if someone violates the other person's right, they are punishable by society and the Government.

The basic ideology of human rights is based on the following principles.

- The basic phenomenon of human rights is based on “universalism and inalienability.” That means every human being born with these rights cannot give up, and no one can take their rights away.
- Now human rights are divided into many kinds, such as “civil, political, economical, religious, cultural, social, natural and many more”. All of these rights have the same status, and all rights are equally important for a person. So there is no hierarchy of kinds and importance of fundamental rights. All rights are equal, and all rights are essential.
- Human rights are “interdependent and interrelated”. Often rights are interdependent and interrelate with other rights. For example, political rights are interdependent on civil rights. Political rights cannot survive without civil rights.
- Humans are subject to human rights. And humanity is based on “equality and nondiscrimination”. Every human is entitled to these rights without any discrimination. Race, colour, gender, age, ethnicity, language, religion, nationality, disability or ability, social status etc., are not the base of discrimination and their entitlement to human rights.
- “Participation and inclusion” are the other phenomenon of fundamental human rights. Human rights give the right to every person to participate in any activity which can be



political or non-political. Human rights also developed an inclusive society where everyone has equal opportunity to experience and enjoy freedom and liberty.

- Right for one person is a duty for another person. If someone fails to perform their duty, they are accountable before the law. The human right also belongs to the rule of law and governance, which protect the fundamental rights of any person (What are Human Rights, n.d.).

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### **Understanding of Political Rights**

Western political rights are the phenomenon that emerged in the 17<sup>th</sup> and 18<sup>th</sup> centuries with the American, French and English Revolutions. Western Political rights are the base of individualism. These rights focus on the person's ability to contribute to the state and society's civil and political life without discrimination and repression. In the western concept of political rights, political rights are directly connected with citizenship. Political rights are the right to vote, join a political party, hold public office, and freedom of association and assembly (Citizenship and Political Rights, n.d.).

Political Rights are somehow directly or indirectly connected with the concept of democracy. The democratic form of Government strengthens the political rights of the citizen. Political rights also directly link with the civil right and citizenship status of a person following the rights known as political rights.

- **Right to Vote**

It is the first right under the political right. According to this right, every adult citizen can vote for the Government during an election and can choose the Government of their choice. In some states, the age voting age of a citizen is eighteen years, and in some is twenty-one years. This right is related to democracy, where people can choose representatives to run the Government and make the decision-making process.

- **Right to get Elected**

According to this right, every citizen has the right to get elected regardless of their religion, gender, caste and creed. Every citizen has the right to get elected for any public office. They can be senators, members of assemblies, local government members, and part of any committee. However, some qualifications can be required as per the constitution and legislature of the state.

- **Right to Hold Public Office**

After getting rightfully elected by people's vote, anyone can hold any public office and make state and state policy decisions. Although some state constitutions and legislatures



make it specific, who can hold the public office? For example, according to all three constitutions of Pakistan, Non-Muslim cannot be the President and Prime Minister of the State, but they can be the ministers. So for the President and Prime Minister, Non-Muslims of Pakistan cannot be qualified for election. Still, for other public offices, they are eligible and work in these positions and become part of the decision-making process.

- **Right to form Political Party**

The citizen of a democratic state has the right to found their political parties. Through these political parties, they can pursue the election and become part of the Government. But some states allow their citizen to launch a political party, and some deny their right. For example, in Pakistan, there are many political parties. Some political parties are the rightest, some are leftist, some are nationalist parties, and some are religious parties. But there are only two political parties in the United States of America, and the People's Republic of China has only one political party.

- **Right to Criticize**

The right to criticize is also one of the crucial political rights. According to this right, citizens, can and political parties can condemn the acts of Government and make the Government more responsible and answerable.

- **Right to Oppose the Government**

In a democratic state, citizens can oppose the Government peacefully or by protest when the Government fails to protect their rights and misses its duties. This right constitutionally allows the people of the state to make the state answerable and responsible.

- **Right Petition**

To address their grievances, any citizen can petition against any government office. Citizens individually and collectively can file the petition and ask the Government or State and judiciary to help them. The petition can be filed on political and non-political issues if it is not against the state's security. Via petition, citizens can also demand any right they feel is missing and deserve (Ghai, n.d.).

### **Political Rights in ICCPR**

The International Covenant on Civil and Political Rights (ICCPR) is the covenant on civil and political rights presented by the United Nations. On 16<sup>th</sup> December 1966, ICCPR opened for ratification, and on 23<sup>rd</sup> March 1976, it entered into force. It consists of 53 articles, and every article contains multiple sub-articles (International Covenant on Civil and Political Rights).

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In the western concept of human rights, political and civil rights are interconnected and discussed. The preamble of ICCPR focused on the “inherent dignity of the human rights”. Human rights are based on freedom, justice, equality and peace between human families and the world. The rights discussed in ICCPR are for all citizens of the states, including all types of minorities such as lingual. Cultural, religious etc.

ICCPR articles are divided into different parts. Part I has on one article that deals with the right of self-determination, property right or freely dispose of their natural wealth and lastly, the right to administrate non-self governing and trust territories.

Part II consists of Articles 2 to 5. These Articles deal with the equality of citizens and gender base equality. This Part also discusses that the state may derogate from this covenant’s obligation in times of public emergency. But any type of discrimination such as gender, religion, race, colour, social and language is forbidden for the signatory states.

Part III contains Articles 6 to 27. These articles deal with the 1. Right to life 2. Freedom from torture 3. Freedom from slavery 4. Freedom from arbitrary arrest/detention 5. Right to humane treatment in detention 6. Freedom of movement and residence 7. Prohibition of expulsion of aliens 8. Freedom of thought, conscience, and religious belief 9. Freedom of expression 10. Right to privacy 11. Non-imprisonment for debt 12. Fair trial (sub-divided into 16 enumerated rights) 13. Right to personhood under the law 14. Equality before the law 15. Freedom of assembly 16. Freedom of association 17. Right to marry and found a family 18. Rights of children 19. Right to practice a religion 20. Prohibition of war propaganda and hate speech constituting incitement 21. Right to hold office 22. Right to vote in free elections 23. Right to be elected to office 24. Equal access to public service. Articles 28 to 45 are part of Part IV of the Covenant. This part debate the measures for check and security of human rights within the states. To check and balance human security, the covenant suggests that every state should make human rights committee. And this committee present and submits its report to the Government and international organizations to solve human rights issues. This part further suggests how to develop the committee and how it should work.

Part V has two articles, Article 46 and 47. This part ensures that nothing and no one impaired and misinterpreted this covenant’s contents.

The Part VI of the covenant, which consists the Articles 48 to 53, deals with the ratification and endorsement of the covenant. The last six articles of the covenant are all about bureaucratic and endorsement features of the covenant and answer the questions such as



how this covenant would be ratified and, after ratification, what the obligation is for the state.

### **Political Rights in Islam**

There is a huge discussion about what political rights are in Islam and whether these rights are similar or different from Western political rights. Islam is the religion of peace and equality, and its Shura has broad and liberal teachings and an understanding of human needs.

As a member of Islamic society, people have to accept and follow some rules and regulations that automatically become their political rights. The first rule of Islamic society is “Toheed”, which means God is one, and everything on the earth and in the whole universe belongs to Allah Almighty. Allah has supremacy all over the world. The second rule is “Man is representative of Allah”, which means on the earth, man or humankind represents the teachings and values of Allah by their act. Ultimate Freedom is the third value of Islamic society. According to Islam, people are free to choose their lifestyles, but if they act bad and disturb the life of other people, there is punishment for them in this world and out of this world on the day of judgement. So, Islam gives us the concept of equality and justice beyond religious identity. In Islam, every person is equal on earth and has the same rights.

Islam also gives the “Constitutional Values”. “Shura” is the fundamental constitution for the politics of the Islamic state and the life of a Muslim. Shura consists of the teaching of the Quran and the Acts of the Last Prophet, His Excellency Muhammad (SAW). Shura gives the pattern to how to live your life, how to act in public, the Rights of God, the rights of humans, the duties of humans, and even how to deal with animals. Just like the constitution, Shura tells how a person should live in Allah’s territory. The second value is “Justice”. Islam teaches us about justice and the supremacy of the judiciary.

Justice is the main principle to rule the people in the Islamic world. Islam also gives “liberty” by every means without any religious discrimination. The liberty of Islam consists of “Liberty also includes freedom of opinion, of belief, of education, of ownership and personal freedom. Personal freedom includes freedom of movement, right to security and right to shelter”(Al-Jarhi, 2016). Islam also teaches about “equality”. In the eye of Allah, every person is equal, so it should be for the state. Muslims and Non-Muslims both have the same fundamental rights and equality before law and dealings in the state. The Shura of Islam also discussed the “rules of Accountability”. That means every person.



Even Caliphate is accountable for his acts. So everyone can act good and increase prosperity for the people.

The Objectives of Sharia Politics are the protection of faith, protection of life, protection of progeny, protection of intellect and protection of property of every single resident of the Islamic state. The government of the Islamic State is responsible and accountable for the security of the political rights of the citizens, just like any democratic or non-democratic state. But there is only one difference: the Supremacy and Sovereignty of Allah on everyone.

### **Political Rights of Religious Minorities in Islam**

The Islamic term for religious minorities is “Dhimmi” or “Ahl Al Dhimma”. The term Dhimmi refers to those Non-Muslim such as Christian and Jews who chose to live in Islamic State. The Islamic State guarantees the protection of Dhimi. Religious minorities have to pay a special tax called “Jazya” to Islamic State and enjoy life and freedom within the state<sup>1</sup>.

In the Islamic state or states political rights of Non-Muslim or religious minorities are different from the Western Political Rights. As discussed earlier, Western Political rights consist of the right to vote, the right to hold office and the right to find a political party. Any citizen can enjoy these rights without any discrimination of gender, race, religion, caste and creed. But Islamic Sharia does not allow Non-Muslims to hold any public office. Islam does give the right of speech to Non-Muslim citizens if their speeches are not against the teachings of Islam<sup>2</sup>.

Although Islam does not allow Non-Muslims to hold the office of head of state and head of Government, Islam enables Non-Muslim leaders to hold the office of any ministry and give their services as secretaries. According to Al-Mawardi, “a non-Muslim (Ahl al-dhimma) may be appointed as wazirthanfidh (minister with delegated authority), but he cannot be appointed as wazirtafwiz (minister independent in the discharge of his official functions)”<sup>3</sup>. Non-Muslims can be part of the “Legislative Assembly”, and entrusted Non-Muslims can also be part of the decision-making process for the Muslim population. During the Government of the Abbasid caliphate, the prepondering number of non-Muslims worked in

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<sup>1</sup> Srakhsi, *Sharah al-Siyar al-Kabir*, Dar al Ma' arif Hyderabad Deccan, 1355 A.H

<sup>2</sup> Al-Baladhuri, *Futuh al-Buldan*, P 198.

<sup>3</sup> Al-Mawardi, *op. cit.* P.27

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the different departments of the state. Even Non-Muslims held the highest and most critical executive posts, viz, vizarate and chief secretary.<sup>4</sup>

In the governments of different Caliphates and current Muslim countries, Non-Muslim leaders are part of various important jobs. Still, they cannot be part of a job that solely deals with Muslims' religious affairs and beliefs.

Just like all other states of the world, Islamic states demand loyalty from religious minorities and other minorities of the state. Even though their loyalty never be checked if it shows otherwise. With loyalty and patriotism, Non-Muslim can live in the Islamic states and enjoy every perk and facility(Khel).

Islamic states are the states of ideology. And the doctrine of Islam is broad, comprehensive and liberal. Islamic teachings also ensure religious freedom and freedom of living. But political rights of the West and Islam are very different. Like the "right to Vote", in the precedent of the first four caliphates of Islam, no direct voting from every citizen took place. So, sometimes Muslim population of the state cannot be part of direct voting. Just like the right to vote, the "right of political party" did not exist in the earlier Islamic states. But now, all Muslim states of the world are giving rights to found political parties to their citizens. The other political rights, such as the right to criticize, question, and information, the right to oppose the Government, and the right to petition, are given by Islam 1400 years ago. The leadership of Islamic states is filled with examples where Caliphate answered its people's questions. Islam also believes in the rule of law and the supremacy of the judiciary even above the Caliphate.

### **Political Rights of Minorities**

Minorities are an integral part of the population of any state. Many states have minorities as their first citizens, so they enjoy every perk of citizenship without any discrimination. Now states have many types of minorities such as linguistic, sect base, religion base, cultural base, caste and creed base, economic status base etc. This diversity makes the state fabric beautiful, and the bond between people makes the state fabric strong. Every minority is an essential part of the state's democracy.

In pluralistic societies, some minorities do not receive equal rights and acceptance because of social norms and culture, especially religious minorities who have to suffer because of social norms. But theoretical constitutional, every citizen has equal rights, including

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<sup>4</sup>Maududi, *Islami Riyasat (Urdu)* Lahore 1979, PP. 598-99.





minorities. in a democratic state, the majority population is the privileged part of the population who directly influences a political decision, and minorities have to suffer. But almost every constitution has given all political rights to its citizens.

The first need of minorities is recognition and acceptance of their identity. For recognition and acceptance, minorities use their political identity in the Parliament and decision making process. So, the right to vote, right of association, right to assembly, right to speech, right to thought and freedom of religion, freedom of movement and business makes sure that minorities of the state become an equal part of state demography. The creation of Pakistan is the most prominent example of how political identity can change the future of the suppressed class.

Political rights also give the right to minorities to pick the electoral system for the elections for themselves. It's up to minorities whether they want to be a part of the joint electorate or separate electorate. But sometimes, states snatch this right and decide how will the minorities vote and become part of the mainstream.

Besides these rights, theoretically, minorities also have the right to hold any public office. It means minorities can be the part of local government, municipalities, members of Parliament, ministers, secretaries, advisors, and even heads of Government and state. But in practicality, political leaders of a minority do not get enough votes to become head of government or state.

Sometimes constitutions make efforts to make minorities part of Parliament. The constitution introduced a "quota or reserved" seats for minorities according to the population. So if minorities cannot get enough votes to be part of politics, they can be the part of decision making and voice of their people in the Parliament. The constitution of Pakistan gives ten reserved seats to 5% of religious minorities of the state. The constitution of Pakistan also reserved sixty seats for women in Parliament.

Minorities of the state also have the right to oppose and criticize the government's decision and the right to petition. Because of these rights, minorities have the right to protest against any judgment they feel is against their religious identity and fundamental freedoms. These rights also help them demand more from their governments and make their lives better economically and socially.

## **Conclusion**



Human rights are a concept that is still growing fastly. Human Rights are directly linked with demand. When someone feels that there is something that they deserve but is missing in social norms and the legal system, they demand it from society and the state; if the community and state validate their demand, that becomes right. So, if the minority of the state mandates its political or civil or social or religious or cultural rights, they can get it (maybe after some struggle). In pluralistic societies, minorities are fighting for survival, so political rights are not their first agenda to deal with. In third-world democracies like India and Pakistan, religious minorities are worse living standards. They are facing so many social and economic issues. That's why they are not so politically active. But political rights are the only way for them to achieve some victory and can live peacefully. Because their participation in the Parliament is active, speaks for their problems and rights, and demands their solution, they can get it. Political rights are not just the right to vote or get elected. Political rights also require fair elections and fair trials for every citizen. Political rights also mean that every vote gets counted and validated. In largely populated states like India and Pakistan, direct elections are impossible, but indirect elections also make the candidate answerable to their voters. Political rights make every citizen part of the mainstream. That's why political rights are important for minorities too. Political rights of religious minorities made them counted, validated, and part of the decision-making process not only for the state but for themselves.



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