



Reconciling Faith and Rights: Minority Protections in Islamic Jurisprudence

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Submitted: 15 Jan 2025
Revised: 02 Feb 2025
Accepted: 09 Feb 2025
Published: 01 March 2025

Keywords: Faith;
Islamic Law; Justice;
Minority.

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Abstract

This article explores the intricate relationship between Islamic jurisprudence and the protection of minority rights, with a particular focus on how the concept of justice is interpreted and applied within the Islamic legal tradition. Drawing upon foundational Islamic texts such as the Qur'an and Hadith, it examines the historical and legal mechanisms – most notably the *dhimma* system – that were designed to ensure the safety and autonomy of religious and ethnic minorities under Muslim governance. Central to the discussion are the values of equality, justice, and communal coexistence, which have been understood and implemented in various ways across different Islamic legal schools and socio-political contexts. The article critically analyzes both inclusive interpretations that promote interfaith harmony and exclusionary practices that have marginalized minority communities. Special attention is given to the ongoing efforts by contemporary Muslim scholars and reformist thinkers who aim to reinterpret classical legal doctrines to better align with modern universal human rights frameworks. These efforts reflect a growing movement within Islamic thought to reconcile faith-based legal traditions with evolving norms of global justice and pluralism. By providing a nuanced and historically grounded analysis, this article contributes meaningfully to contemporary debates on how Islamic law can support, rather than hinder, the rights and dignities of minority populations in modern, multicultural societies.

Abstrak

Artikel ini mengkaji hubungan yang kompleks antara fiqih Islam dan perlindungan hak minoritas, dengan fokus khusus pada cara konsep keadilan diinterpretasikan dan diterapkan dalam tradisi hukum Islam. Dengan merujuk pada teks-teks Islam dasar seperti Al-Qur'an dan Hadis, artikel ini menganalisis mekanisme historis dan hukum—terutama sistem dhimma—yang dirancang untuk menjamin keamanan dan otonomi minoritas agama dan etnis di bawah pemerintahan Muslim. Inti dari pembahasan ini adalah nilai-nilai kesetaraan, keadilan, dan hidup berdampingan secara komunal, yang telah dipahami dan diimplementasikan dengan berbagai cara di berbagai mazhab hukum Islam dan konteks sosio-politik. Artikel ini menganalisis secara kritis baik interpretasi inklusif yang mempromosikan harmoni antaragama maupun praktik eksklusif yang telah meminggirkan komunitas minoritas. Perhatian khusus diberikan pada upaya berkelanjutan para cendekiawan Muslim kontemporer dan pemikir reformis yang bertujuan untuk menafsirkan ulang doktrin hukum klasik agar lebih selaras dengan kerangka hak asasi manusia universal modern. Upaya ini mencerminkan gerakan yang semakin berkembang dalam pemikiran Islam untuk mendamaikan tradisi hukum berbasis agama dengan norma-norma keadilan global dan pluralisme yang terus berkembang. Dengan memberikan analisis yang nuansatif dan berakar pada sejarah, artikel ini memberikan kontribusi yang berarti dalam debat kontemporer tentang bagaimana hukum Islam dapat mendukung, bukan menghambat, hak dan martabat populasi minoritas dalam masyarakat modern yang multikultural.

Kata Kunci: Iman; Hukum Islam; Keadilan; Minoritas.

Introduction

Islamic law primarily draws from the Holy Quran and the Sunnah, or the precepts of Islam's Holy Prophet (PBUH). The primary source of moral and legal legislation is the Holy Quran. Muslims have an obligation to uphold the teachings of the Holy Quran in both letter and spirit. The teachings, deeds, and verdicts of Islam's Holy Prophet (PBUH) have elaborated upon, clarified, and interpreted the Quran's commands and decrees. As a result, learning about Islamic principles pertaining to human rights is desirable. Rights are meaningless in the absence of remedies. The efficiency of the implementing agencies and the judiciary's response in cases of human rights violations must be assessed, along with rights provided to religious minorities in Islamic countries (Kaul, 1995).

Fourteen centuries ago, the Holy Quran provided mankind with an ideal set of human rights. These rights end injustice, exploitation, and persecution while also granting humanity and dignity to religious minorities. The core tenet of the Holy Quran is that God alone is the source of all human rights and is the one who gives

laws. Owing to their divine origin, no ruler, government, assembly, or other authority is able to restrict or violate the Human Rights that God has bestowed upon humanity, nor can they be relinquished. In this regard, the Holy Quran grants human rights to all the religious minorities. Therefore, the human rights found in the Holy Quran are an essential component of the whole Islamic system, and all Muslim governments and social institutions must uphold them in text and spirit inside the parameters of that directive. The violation of human rights in any country in general and Islamic countries in particular are extremely concerning and are bringing them to the attention of a growing number of individuals worldwide (Naqvi, 2008).

The foundation of all human rights is the Holy Quran, which aims to liberate people from the bonds of customs, racism, misogyny, slavery, and other forms of authoritarianism, religious, political, and economic, tribalism, and anything else that prevents or hinders people from realizing the vision of human destiny found in the Holy Quran, which is represented in the traditional declaration “Towards Allah is their limit”. In this regard, the first thing we discover in Islam is the establishment of certain rights for man as a human being. Stated differently, it implies that every man, regardless of his nationality, religious beliefs, or geographic location, is entitled to certain fundamental human rights just by virtue of being a human, a fact that every Muslim should acknowledge. Actually, it will be his responsibility to carry out these duties.

Methods

This study uses a library research-based qualitative research method, which is an approach that focuses on searching and analyzing written sources as the main material in answering research questions (Zed, 2008). This method was chosen because the topic addressed ‘*Reconciling Faith and Rights: Minority Protections in Islamic Jurisprudence*’ is a normative study that requires a deep understanding of classical and contemporary Islamic texts, both doctrinal and interpretative in nature.

The primary data in this study was obtained from key literature in Islamic jurisprudence, such as the works of scholars of the four schools of thought (Hanafi, Maliki, Shafi'i, and Hanbali), as well as classical Islamic legal literature discussing the status and rights of minority groups, such as ahl al-dzimmah, in the context of Islamic society. In addition, the author also refers to modern Islamic documents that reflect efforts to reinterpret Islamic law, particularly in relation to human rights and the principle of universal justice.

Secondary data was obtained from various academic journals, scientific articles, contemporary books, and reports from international organizations that

examine the relationship between religion, human rights, and pluralism in the context of the Muslim world. The literature was analyzed qualitatively using a content analysis approach to capture the patterns of thought and argumentation that have developed in the discourse on the protection of minorities under Islamic law. Thus, through this literature review approach, this study not only describes how Islamic law regulates the protection of minority groups but also seeks to formulate a model of reconciliation between faith and rights, which can contribute to the development of a more inclusive and just Islamic legal system.

Results and Discussion

Rights of Religious Minorities

‘Tributary’ in religious law refers to someone who is protected by the Islamic government. The Islamic government has a number of duties and obligations to the minority of Book Followers. These duties and obligations are outlined in the covenant of protection (Khodouri, 2013). According to the covenant of protection, Islamic society is responsible for three categories of legal obligations: First, the obligations that Muslims have to uphold. Second, the obligations and tasks that, in the event of a deal, the capable Islamic government takes on. Third, illegal duties that are inadmissible by any authority under the covenant of protection for Muslims (Komeili, 1999).

Islam considers marriage to be a legal and absolute right for religious minorities. All marriages between minority’s men and women are legal and formal according to their own rules. On the other hand, Muslim marriage laws limit this right within the framework of their common faith and Muslim women are forbidden to marry non-Muslims, which is considered an omission, since in Islam the only thing that compares equality is Spouses in faith (Komeili, 1999; Palilati, 2022). Shia jurists believe that official marriage of religious minorities according to their official rules is correct from the Muslims point of view, and there is no difference between the followers of the Book and the idolaters or others for that matter (Auda, 2008).

Further, jurisprudents hold that it is prohibited for Muslims to marry non-Muslim women who do not practice Judaism or Christianity, and that Muslim men should never marry Jewish (Haqqani, 2023). For Christian women, temporary marriage is permitted but not permanent. According to minorities’ beliefs and religion, the laws governing divorce are similar to those governing marriage. If there is a disagreement in this regard, minorities have the option of resolving it through their own legal systems or by going through Islamic courts.

In the case of heritage rights religious minorities have special regulation. Religious minorities are subject to specific regulations in this regard based on their

marriage and blood relationships. Islamic law allows for the resolution of heritage division disputes in accordance with minority legal standards. The exception to heritage is made for those who are related to the deceased through marriage to very close relatives (Anderson & Norman J. Coulson, 2019).

Numerous legal scholars have upheld heritage for those related by blood, even in situations when they marry very close relatives. According to other legal scholarships, individuals who are related to one another by blood and who marry, whether legally or unofficially, or with close family members, are entitled to inherit property rights if the devisor and the devisee are the same (Muzakir, 2023). If the devisor and devisees have different religious beliefs, they will not be entitled to the heritage unless the devisor is not Muslim and the devisees, or one of them, is Muslim. In this case, the Muslim will be considered the devisee as long as his Islamic acceptance has been verified prior to the heritage being divided (Komeili, 1999).

In the case of will, in Islam, one's will is a highly encouraged course of action about any matter pertaining to a possession or affairs. It brings about direction and organization. First, the following three groups of people who are related by blood receive the will: 1. Parents, kids, their kids, their ancestors, and so on. 2. The siblings and their offspring. 3. Uncles, aunts, and the kids they raised. Second, in the event that one spouse passes away and the other is still alive, it may be bequeathed to people who are related to one another by marriage. If a religious minority's marriage complies with their religious laws, they too have the right to send someone, or people, to carry out their wishes.

Political Freedom of Religious Minorities

Political freedom is a result of legislative courts, political alliances, and the legislatures. Article 64 of the Iranian Constitution, for instance grants minorities the legal right to run for office and to name a representative to the parliament. These minority are among those who are eligible to vote in the elections. Clause 11 of the Medina Charter states that no one has the authority to treat Muslims unfairly and that everyone who joins forces with us will get protection, aid, and equality.

Further, article 20 of the constitution of the Islamic Republic of Iran states that religious minorities are legally protected and have the right to bring legal action in Islamic courts to resolve disputes. This applies even in cases where one or both of them are religious minorities and the defendant is a Muslim, or vice versa. However, individuals are not required to file a complaint with Islamic courts, and Islamic courts are not required to accept their complaint either. Put it another way, religious minorities are free to consult their own religious and legal authorities rather than

bringing a lawsuit in Islamic courts. This demonstrates minorities' legal freedom in Islamic tradition (Hefner, 2021). Additionally, Islam does not tolerate injustice or the infringement of minorities' rights, as stated in the Covenant of Protection.

Religious Freedom

Islam promises to protect the lives, belongings, places of worship, temples, rituals, and ceremonies of religious minorities. Regarding the fulfilment of the rights of Book Followers, Imam Ali AS states: Those tributaries, whose property, blood, and life are the same as us, have accepted covenant of protection. In order to gain a deeper comprehension of the concept of legal and religious freedom for religious minorities, it is essential to understand Article 13 of the Iranian Constitution as Iran is an Islamic country and follows Sharia as a law of the land.

Furthermore, it is crucial to carefully consider the relevant verses in the Quran to gauge how Islam accommodates the idea of religious freedom. In this regard, Verse 216 of The Cow, Verse 93-125 of the Bee and Verse 11 of Thunder mentioned religious rights of the minorities. From the verses above, it can be inferred that adherents of The Book who reside in an Islamic nation are free to continue practicing their own faith indefinitely. Under the Islamic regime, they are allowed to live in peace and have freedom to carry out their religious duties and rituals. The Quran acknowledges the existence of divine religions and the prophets whom God has chosen, validates their faiths, and proposes their acceptance as tenets of Islam. Verse 3 of The House of Imran is a clear evidence for this claim.

The Quran presents the Torah and the Gospel as divine texts that satisfy both just sciences and divine religion. Islam never allows the use of artificial techniques to advance an idea, which is one example of the unique approach of Islamic thought about religious freedom. Instead, faith and belief should be realized via free will and understanding. The Quran's method of guiding people to the true religion is only permitted through intellect and reasoning, which is why Islam grants its followers the right to discuss religious beliefs with Muslims in the context of reason and intellect and to vehemently defend those beliefs without becoming fanatics.

While the scholars of Followers of the Book engaged in debate and conversation with religious leaders, Followers of the Book openly voiced their criticisms and issues. The covenant of protection states that everyone in the nation, including Jews, Christians, and Zoroastrians, has the right to take part in their own religious rites and ceremonies, and that no one has the right to reject them. Islam, therefore, honors all of the worshipping places and hallowed sites of minorities' religions.

Economic Freedom

Religious minorities and Muslims are on an equal footing in the rights like the right of possession that are not dependent on belief, trade, employment, and financial commitment (Komeili, 1999). Their legal freedoms include the ability to choose their home, place of residency, site of passage, and method of leaving and returning to an Islamic nation. They are free to live anywhere they think is best for them, either permanently or temporarily, even if it means leaving the Islamic nation.

Commercial and economic activity, as well as any activity aimed at acquiring a means of subsistence, are regarded as essential necessities, and in Islamic territory, all people, Muslims or not, are permitted to participate in them. Minorities are protected by the absolute right of ownership to possess land within the context of legitimate transactions. Both moveable and immovable items fall under this category. There are no restrictions on their ability to choose a career or any other private profession, such as manufacturing, industry, training, or medicine. Islamic law merely stipulates that their actions must comply with Islamic law and refrain from generating corruption or instability within the social structure.

Rules of Etiquette (Moral Freedom)

The Islamic government's primary duty under the covenant of protection is to ensure the safety and protection of individuals' lives, property, reputation, financial and reputational interests while also averting any malicious intent. If there is a violation, the criminal will face a thorough examination in Islamic courts. The Prophet's tradition, which states, "Be aware that anyone who does unjust to his confederate or breaks his promise, or imposes on obligation more than his tolerance and possibility on him, and takes something from him without his satisfaction, I will try and call him to account", demonstrates that moral law and methods of practice and behavior with minorities had been in his special concern (Dawud, 2008). In defense of minority' moral liberties, Imam Ali AS declares that "they have reached an agreement with us. They are protected by us as they pay tribute. Their blood is respected and immune, just like ours, and their property is like ours".

It goes without saying that in order for the tributaries to enjoy comparable rights and advantages, a set of moral, etiquette, and social communications standards must be met. From a humanitarian perspective, he views everyone as belonging to the same nation and as being of similar origin. Religious minorities should be treated with

kindness and benevolence in accordance with two moral and humanitarian principles that govern everyone's life. He has shown particular concern for the impoverished members of minority groups and has given clear instructions to provide for their needs out of Muslim funds. This is the guidance of the Imam, who decides how much money the elderly Christian man would receive in retirement and supports the weak, oppressed, and impoverished.

The Concept of Justice and Minority Rights in Islamic Tradition

Justice is the equitable allocation of rights, obligations, opportunities, and honor to all individuals. It calls for treating everyone equally. It entails putting items where they belong. The term 'justice' is derived from the Latin word 'jus' which means 'right' or 'law'. The Oxford English Dictionary define the term 'fair' as a synonym for 'just' defining the latter as someone who does what is morally right and is inclined to giving everyone his or her due.

Justice is both a desired social attribute and a moral virtue of human character. Justice is the only virtue that is truly grand and godlike (Mead, 1965). Most philosophers believe that the most essential virtue for building and preserving social order and regulating interpersonal relationships is justice. According to Rawls, the primary virtue of social institutions is justice (Rawls, 1971). Both in an individual's life and in society at large, justice is crucial. It includes every facet of life and makes it possible to coexist peacefully with others. Since justice is the source of all great qualities, it is the foundation of human life. It is reasonable to argue that the foundation of structured social life is justice. A society that finds the essentials of existence and, as a result, triumphs over all its issues is one in which justice is attractive.

Since the idea of justice is central to all ethical systems, Islamic ethics likewise rests on it. According to the Holy Quran, one of the most important Islamic qualities is justice. Justice is the only moral virtue that is emphasized in the Holy Quran and Hadith than any other, mostly as a response to the pre-Islamic societal structure that gave justice little to no weight. The Holy Quran places a strong focus on justice since it helps to establish social order and allows people to build better social structures to achieve a balance in their social affairs and interactions with other beings in order to establish justice. Islam is a religion that emphasizes justice in all of its forms and calls on people to practice justice in various contexts.

The Quran uses terms like 'adl' 'qist' 'mizan' and others to describe every facet of justice. But the term 'adl', which denotes equality and fairness, is most frequently employed in the Holy Quran to allude to Divine justice. 'Adl' relates, in a qualitative

sense, to the equality principle, which accords everyone equal rights. Conversely, it alludes to the distributive justice concept in a numeric sense. The Holy Quran uses the term 'qist' or 'mizan' in the sense that 'qist' denotes an even distribution, while 'mizan' refers to a balance scale. 'Adl' is occasionally used to denote the opposite of the terms 'zulm' or 'jawr', which denote oppression, injustice, and wrongdoing. Thus, 'adl' has a literal meaning that combines moral and social qualities to signify justice, equality, balance, and other concepts like fairness. Divine justice would therefore be a culmination of all these principles and attributes.

According to the Holy Quran, justice requires people to act fairly and justly toward one another, without discriminating against others based on their gender, color, or socio-economic condition. The followers of Allah are obligated to uphold the rights of others, treat everyone fairly, even our adversaries, stand for those who are oppressed, assist the poor and orphans, and refrain from going above and beyond what the Lord has prescribed. It is the duty of believers to uphold justice in society by acting justly and fairly in every situation. In order to reign with justice, a person must put aside all of his or her own beliefs and sentiments, stand by what is right in all situations, and never stray from the road of righteousness and justice. A decent individual has to include the principles of the Holy Quran so that, even in situations where doing so goes against his personal interests, he/she can be able to uphold justice.

However, Islam demands its adherents to maintain justice even in the face of intensely opposing feelings, which is, love and hatred for one's fellow humans cannot stand in the way of enforcing justice. According to the Holy Quran, *"Ah, you who have faith, as witnesses of Allah, stand up resolutely for justice, even whether it comes to opposing yourself, your parents, or your relatives, or whether it is against the wealthy or the poor, because Allah is the one who can best defend both. Do not give in to your desires (of your hearts). If you pervert justice or choose not to execute it, then rest assured that Allah is fully aware of whatever you do"*.

The meaning of justice as well as all the prerequisites for its establishment are explained in above mentioned verse, which emphasizes the importance of practicing justice in matters pertaining to our interactions and dealings with others. Allah commands believers to be just and firm in upholding justice, even when it goes against their narrowly defined self-interest or the interests of those who are closest to them. In addition to establishing justice, believers are commanded to uplift its banner, where it is suppressed.

One should value justice so highly in life that self-interested factors cannot sway it. When justice is applied against them or those close to them, such as parents or relatives, people tend to avoid it. However, it is evident from this text that our

affection for those closest to us cannot stop us from doing justice. This verse clearly affirms a perfect view of justice. It challenges and commands man/woman to steadfastly support justice.

Another verse in the Holy Quran, which says, “O you who believe, represents the second barrier, or hate of justice. As just witnesses, forcefully stand up for Allah, and do not let other people’s animosity or hostility prevent you from upholding the law. Act justly, which is closer to piety, and have fear of Allah. Indeed, Allah is well aware of your actions. The words above underline that all believers have a duty to uphold justice in all situations. Ignorant people believe that by treating others unfairly, they are defending their own interests. Once more, treating the enemy harshly comes from nature. However, these verses serve as a reminder to believers that Allah is the true guardian of everyone’s interests, and that He will defend us if we heed His instruction to act justly. It is therefore a directive to the believers, along with a reminder that Allah is observing them, and that you should never use the animosity of others as a justification for treating them unfairly.

The passages above make it very evident that all believers have a duty to uphold justice in all situations, without fear or favor. Furthermore, one should not let the social or economic standing of the parties involved influence their decision to render an unfair verdict. In order to practice justice, believer must also refrain from giving their ego undue weight. This means that when to make decisions, one should not consider how their actions may make others perceive them. It becomes an instrument of injustice when people apply justice while taking into account their own personal interests, present the evidence in an ambiguous manner, or withhold some facts in order to protect someone.

The believer must understand that since Allah is well-acquainted with their actions, their mental condition will not remain concealed from Him, and they will not be able to protect themselves from the negative effects of their deeds. Thus, the individual dispensing justice must be free from all internal and external influences that could sway a just choice in order to possess the quality of justice. There is no denying that when people are just, justice is served. Living a peaceful existence requires practicing justice in our thoughts and deeds.

Conclusion

The complicated interplay between minority rights and justice within the framework of Islamic law is a result of historical settings, changing readings of Islamic texts, and socio-religious processes. Islamic jurisprudence has stressed upon throughout the history to ensure equity and justice for all parties, especially

marginalized people. As the Quran and Hadith underscore, Islamic teachings are essentially pro-justice, with a focus on fairness, equity, and the protection of marginalized populations. All people are subject to the Quran's commands to defend justice (Quran 4:135), irrespective of their ethnicity or religion. This cornerstone of Islamic ethics emphasizes the need for a just society that respects and safeguards its different members and acts as a guideline in conversations regarding minorities' rights.

Islamic methods of government in the past have demonstrated efforts to provide unique legal frameworks to accommodate minorities, especially during the Caliphate period. The dhimma system, which gave non-Muslims protected status, is an example of an early effort to establish a harmonious relationship between minority populations and the Muslim majority. Even though this system had drawbacks and difficulties, it set the stage for the advancement of minority rights in an Islamic setting. The historical accounts of these actions serve as a reminder that, depending on the time period and environment, there have been many diverse interpretations of justice, which are frequently shaped by the socio-political circumstances of the day.

The Islamic legal system is still developing and interacting with current ideas of social justice and human rights. This current debate suggests that Islamic thought is becoming more aware of the necessity of balancing conventional legal frameworks with modern human rights theories. Such initiatives play a critical role in demonstrating that minority rights are not only consistent with Islamic principles but also necessary to achieve a fair and just society. The way that Islamic law's concepts are applied to minority rights frequently varies greatly depending on the political, social, and cultural setting. Because of this diversity, it is necessary to have a sophisticated grasp of the various ways that Muslim-majority nations see and implement justice. The difficulties minorities encounter in these situations highlight the significance of applying context-sensitive methods to the interpretation of the law and the advancement of justice. Promoting inclusion and understanding requires recognizing local realities while adhering to core Islamic values.

Upon considering the future of minority rights in the context of Islamic law, it is evident that continued discourse, research, and activism are crucial. Minority rights law is always changing due to interfaith relations, local circumstances, and worldwide human rights trends. Islamic jurisprudence's flexibility and dedication to justice offer a strong basis for addressing the concerns and rights of minority people. In Islamic legal tradition, the link between justice and minority rights is dynamic and multifaceted. The fundamental tenets of justice ingrained in Islamic teachings emphasize the necessity of treating every person equally, regardless of their background.

While modern reinterpretations emphasize the applicability of these ideas in solving contemporary difficulties, historical actions demonstrate the possibility for inclusivity. The advancement of justice within the Islamic legal system is contingent upon the proactive participation of marginalized voices, the significance of contextual comprehension, and the encouragement of education and discourse. In addition to fortifying the Islamic legal heritage, a dedication to justice and inclusivity will help us move forward and further the larger objective of creating a fair and peaceful society for all.

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