
ROLE OF INTERNATIONAL BODIES IN PROVIDING PROTECTION TO MINORITIES AND THEIR EFFECTIVENESS IN ADDRESSING VIOLATIONS COMMITTED AGAINST THEM

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ABSTRACT

This study will look at how minority rights are protected under International Law with regard to the role played by international institutions, both affiliated with the United Nations and regional organisations, in safeguarding these rights. The study concludes that increased attention to minority rights at the international level occurred due to the increased numbers of minorities who were being subject to human rights violations, resulting in the need to create international mechanisms for monitoring and judicially enforcing these rights. The research also clarifies the role of United Nations institutions, such as the Security Council and international courts, in protecting minorities, as well as the role of regional bodies such as the Council of Europe and the League of Arab States. The research concludes that significant progress has been made in the field of international protection, despite the existence of legal and political challenges that hinder the achievement of effective and comprehensive protection for minorities.

Keywords: adjudication mechanisms; Council of Europe; League of Arab States; political challenges; international law.

Introduction

Introduction to the Research Topic: Some states engage in human rights violations that may go so far as to constitute an affront to human dignity. In light of this situation and amidst the growing interconnectedness among members of the international community, facilitated by modern technologies, and driven by the shared humanity that unites all people regardless of race, origin, religion, or beliefs, it has become increasingly imperative to identify oversight mechanisms capable of enforcing human rights guarantees. This need is particularly pressing given that international efforts to enshrine these guarantees have historically met with little opposition; the current challenge lies, rather, in transitioning from the phase of mere enshrinement to the establishment of universal international monitoring bodies tasked with implementing these guarantees.

Promoting human rights and fundamental freedoms constitutes a primary objective of the United Nations. Consequently, the Organisation has adopted a policy of "mainstreaming" human rights, meaning that human rights are treated as a cross-cutting theme to be integrated into the operations of all institutions comprising the United Nations system. From this perspective, the principal organs of the United Nations possess mandates in the field of human rights, which they exercise either directly or through their subsidiary bodies, whether such bodies were explicitly stipulated in the Charter or established subsequently in response to specific needs. Upon examining the institutional structure of the United Nations, one can distinguish between its various institutions based on the nature of the mandates entrusted to them; while each institution possesses specific competencies as defined by the Charter, all of these institutions collectively share competencies in the realm of protecting human rights and fundamental freedoms, including the rights of minorities.

Importance of the Research: The importance of this study is to provide an overview of group rights, one of the most significant issues affecting human rights today, because minority groups often face different forms of abuse based on their minority status. Additionally, this study will explain how various international agencies or organisations play an integral role in protecting the rights of these individuals and how effective they have been at stopping these abuses.

This study also seeks to identify the limitations of the global system currently in place and will provide suggestions to strengthen the legal protections available to minorities. You're being asked to paraphrase a passage from a document that was published on the topic of international

law and its relation to group rights. In the research problem described above, the author proposes to study how effective global and regional international organisations have been in supporting minority rights, with a specific focus on determining if the challenges of implementing new, globally recognised international laws or standards impede the ability to meet these objectives of supporting minority rights. Thus, in trying to learn about this topic, the researcher poses two key questions:

- What are the current functions of international courts and the Security Council regarding protecting minorities?
- Do regional bodies provide better protection than do global ones? This study uses a variety of scientific methods (analytical, descriptive, and comparative) to investigate issues relating to minority rights as part of the research methodology adopted for this research.

The following methodology is used in the study:

(1) an analytical method to analyse international conventions and resolutions relating to minority rights.

(2) a descriptive method (from metrics) for describing the role of international or regional organisations in providing protection

(3) a comparative method for identifying differences/disparities between global and regional methods of protecting minorities and assessing the relative efficacy of each. Overview of Research Plan – This will consist of two parts (as described in Section 1):

Role of the UN in Protecting Minority Groups.

Subsection One: The Role of the Security Council in Protecting Minorities.

Subsection Two: The Role of International Courts in Protecting Minorities.

Section Two: The Role of Regional International Bodies in Protecting Minority Rights.

Subsection One: European Safeguards for Minority Protection.

Subsection Two: Other Regional Safeguards for Minority Protection.

Requirement One

Role of United Nations Organs in Protecting Minorities

The UN, through its numerous organs, has displayed a strong concern for human rights as a whole and especially about minority rights. To promote human rights and build international respect, the UN has set up different organs with assigned functions and responsibilities to carry out specific mandates and activities and operate within their legally authorised jurisdiction⁽¹⁾.

The UN has based its understanding on an entirely different philosophy from the League of Nations regarding how to ensure adequate protection of minority rights. The League of Nations sought to create a special system just for the protection of minority rights; however, the UN has declared that the principle of human rights is universal. The UN Charter also does not designate any one particular division to handle all human rights matters⁽²⁾, all United Nations organs have effectively acquired a comprehensive mandate to address human rights issues, specifically those about the rights of minorities. The UN Charter did not specify that minority rights were a separate category of rights; instead, it simply stated that human rights and the elimination of racial discrimination were universal principles. Thus, the UN has taken the initiative to promote and respect these rights within all countries, regardless of their culture or political system⁽³⁾.

Further to the above, the present section will be divided into two subsections, as follows:

Subsection One: The Role of the Security Council in Protecting Minorities. Subsection Two: The Role of International Courts in Protecting Minorities.

Subsection One

The Role of the Security Council in Protecting Minorities

Considered one of the principal organs of the United Nations, the Security Council enjoys a special and separate status (for it is the executive branch of the United Nations and the organ of the United Nations particularly charged with the maintenance of peace and security). It consists of two groups of States; the first group consists of the five permanent members, France, Russia, China, the United States and Great Britain. The second group is composed of ten non-permanent members elected by the General Assembly for non-renewable terms through

elections held every two years; no single member state is entitled to re-election for two consecutive terms. In electing a non-permanent member, due regard must be given to the state's contribution to the maintenance of international peace and security, and this factor must be taken into account when applying the principle of equitable geographical distribution. These states within the Security Council differ from those with permanent representation, the latter of which possess the right to veto Security Council resolutions⁽⁴⁾.

It may be stated that resolutions issued by the Security Council are binding provided that two conditions are met:

1- Resolutions must be of a binding nature; this implies that recommendations issued by the Security Council—such as those concerning the admission of a new member, or the suspension or expulsion of an existing UN member—"do not, by their very nature, possess binding force vis-à-vis the General Assembly," which holds the authority to make the final decision in this domain.

2- A resolution must be adopted by the United Nations "in accordance with the Charter". The result of this requirement is that the Security Council is severely restricted in its ability to issue binding resolutions, a restriction which protects it from exercising powers not allotted to it under the Charter. Thus, if a resolution has been adopted not "in accordance with the Charter" but in violation of, contrary to, or in excess of its provisions, it is not binding, nor can Member States be compelled to implement any measure against their will. During the 1990s, the Council adopted a series of resolutions concerning widespread violations of human rights and international humanitarian law, severe suffering threatening the peace, and authorised measures to be undertaken under the provisions of Chapter VII of the Charter of the United Nations⁽⁵⁾.

It follows from the foregoing that international humanitarian law and human rights law have become part and parcel of the world's security architecture, and that from this point of view the actions of the Security Council go beyond the mere authorization of the use of force in many humanitarian crises to the creation of two international tribunals to prosecute those guilty of human rights violations and violations of international law. It is also important to observe that the Security Council resolutions concerning the protection of human rights, that is, the rights of minorities, do not all focus on a particular category but rather deal with the protection of human rights generally. This would include the Security Council resolutions dealing with the

general protection of human rights, such as resolution 688 of 5 April 1991, in which the Security Council demanded an end to the repression of civilians in Iraq and insisted that Iraq cooperate with international humanitarian organisations and ensure respect for the human rights of all Iraqis.

About the Bosnian crisis, the Security Council issued several resolutions contributing to the maintenance of international peace and security "in accordance with Chapter VII of the United Nations Charter." Most of the Security Council resolutions addressed the conflict in Bosnia and Herzegovina, with their primary objective being the upholding of human rights; in this context, the Security Council linked the deterioration Regarding the humanitarian situation in Bosnia and Herzegovina, the Council highlighted flagrant violations of international humanitarian law and international human rights law, as well as the inherent danger these issues posed to international peace and security⁽⁶⁾.

Furthermore, in Somalia, the Security Council worked to halt the internal conflict pursuant to Resolution 751, dated April 24, 1992. Under this resolution, a ceasefire agreement was signed in Mogadishu, alongside agreements to implement measures aimed at reinforcing the ceasefire through a United Nations observation mission. The Council also affirmed the necessity for international and regional organisations, including the International Committee of the Red Cross (ICRC), to provide humanitarian and other relief assistance to the Somali people, notwithstanding the challenging circumstances. Moreover, it called upon all parties, movements, and groups within Somalia to cooperate fully with the Secretary-General in the implementation of this resolution.

As regards the resolutions adopted by the Security Council on the situation in Iraq from the recent past when the situation on the ground was chaotic and coincided with the advent of the terrorist organization ISIS in the country grave violations of human rights that affected the population as a whole, and minorities in particular, ensued, and the Security Council, which was not a mere spectator, adopted several resolutions for the purpose of protecting human rights and minorities in northern Iraq in the areas occupied by the terrorist organization. Finally, the Council has not been without committees of a military character, such as the Truce Supervision Organisation in Palestine, the Military Observer Group in Kashmir, and the Peacekeeping Force in Cyprus.

Section Two

Role of International Courts in Protecting Minorities

First: The International Criminal Court (ICC):

To understand how any institution operates, it is always appropriate first of all to introduce the elements and functions it consists of. The ICC judiciaries comprise the Bench and the PreTrial Division, the Office of the Prosecutor and the Registrar's office. These three divisions were established pursuant to Article 1 of the Rome Statute ⁽⁷⁾. The ICC is an independent and permanent court that exercises jurisdiction over any individual who commits serious acts affecting international interests. It is considered an integral part of the national judicial system⁽⁸⁾.

The ICC is a criminal judicial body with a universal character in its administration of justice, prosecuting those accused of genocide or crimes against humanity. The Court conducts its proceedings in a precautionary and preventive manner, whether military or civilian. The ICC's jurisdiction can be summarised as follows:

First: Temporal Jurisdiction: The Court's jurisdiction in this area is prospective. The Court has adopted the principle of non-retroactivity of criminal laws, as affirmed in Article 11 of the Rome Statute⁽⁹⁾. States that have joined the ICC after the entry into force of its Statute are only subject to its jurisdiction with respect to crimes committed after their accession, provided that these states have not declared their acceptance of the Court's jurisdiction over crimes still under investigation⁽¹⁰⁾.

The ICC is an independent and permanent court with jurisdiction over crimes that have not yet been declared, and has jurisdiction over crimes that are still under investigation⁽¹¹⁾.

Second: The Court's personal jurisdiction: The Court considers the trial of natural persons who have reached the age of eighteen at the date of committing the crime, whether they were principal participants in the crime or participated in committing any act⁽¹²⁾. This is confirmed by Article 25 of the Rome Statute of the International Criminal Court, as the Statute of the International Criminal Court enshrined the principle that official capacity or immunity shall be disregarded—a rule explicitly affirmed by the text of Article 27⁽¹³⁾.

Third: Subject-Matter Jurisdiction. Under this jurisdiction, the Court adjudicates crimes of a

humanitarian nature, war crimes, and genocide. Crimes of this nature are frequently observed when perpetrated against minorities; this fact was underscored by Article 6 of the Court's Statute⁽¹⁴⁾.

Although article 6 does not mention minorities per se, but rather their general characteristics—that is, their existence as groups of a distinct national, religious or linguistic character, often exposed to the risk of persecution or extermination by reason of their numerical inferiority and comparative impotence in the territories they occupy⁽¹⁵⁾.

The International Criminal Court (ICC) has dealt with numerous cases regarding the protection of minority rights from violations. A notable example occurred in 1994 during the Rwandan Genocide involving the Tutsi and Hutu populations, when many civilian victims suffered from extensive criminal acts committed against them by their own governments, including mass murder and rape. These acts are serious violations of international law and threaten international peace and security. The ICC subsequently convicted the defendants for their planned genocide and crimes against humanity in 1998⁽¹⁶⁾.

The ICC has had several uses in relation to the Arab Muslim minority's conflict with the African tribes of Daoudi Bolad (who led an armed movement against Arab Muslims), and subsequent arrest and execution of Bolad by the UN Security Council. General and establishment of an international Commission to investigate the events in Darfur (per the provisions of the UN Security Council Resolution 1564) on September 18, 2004, and the subsequent recommendation by the Commission that the situation in Darfur be forwarded to the International Criminal Court (ICC), which was done by UN Security Council Resolution 1593 on March 31, 2005 during the UN Security Council's 5158th meeting; the prosecutor for the ICC, Luis Moreno-Ocampo, received the Darfur file (which contained evidence and documents that were relevant to the overall investigation). The Prosecutor conducted a review of evidence and assessment of reports on crime in Darfur by interviewing experts to substantiate the involvement of state officials in the commission of crimes against humanity and war crimes; Former Sudanese President Omar al-Bashir was among those indicted with an arrest warrant issued for him by the Court⁽¹⁷⁾.

We can also conclude the same thing about the precedence of the International Criminal Court (ICC) over the national courts with regard to jurisdiction. Thus, it seems that the act of the Security Council to refer matters to the ICC does not create ipso jure (by the law) precedence

of the ICC's jurisdiction over the jurisdictions of other countries. Otherwise, the Security Council would have to make a specific finding that, in this particular case, the ICC jurisdiction had precedence prevailing over all Member States of the UN, not by the fact of the ICC Statute but by the fact of the UN Charter⁽¹⁸⁾.

By Specifically looking at the criminalization of any actions that violate human rights through the International Criminal Court (ICC), we can see how the ICC is a vehicle for protecting minority groups' rights, as minorities are differentiable from other classes of individuals based on certain factors that support the underlying framework of human rights overall, and/or the specific framework of minority rights.

Second: The International Court of Justice (ICJ):

The International Court of Justice (ICJ) is an important UN organ. It is the only UN judicial body that has the power to settle international disputes authoritatively⁽¹⁹⁾. The Court was established after WWII by the UN charter to assist in fulfilling the goals of the UN, including the peaceful resolution of international disputes and maintaining international peace and security⁽²⁰⁾.

When disputes arise concerning how to resolve them between nation-states, the International Court of Justice is utilised as a tool to enforce the rules of international law. The Court also has the power to make final, non-appealable (non-reviewable) decisions deriving from its own judicial authority⁽²¹⁾.

The International Court of Justice has two types of jurisdiction. These are known judicial and advisory jurisdictions. Regarding jurisdiction, it has an assortment of powers that grant it the authority to hear any case. A case will only be heard by the court if the parties to the dispute have the legal right to appear in court; that is, they will be recognised as being citizens of a United Nations member state. These member states are inextricably linked to each other by membership in the Organisation, and by virtue of such membership are, therefore, entitled to be parties to the Statute of the International Court of Justice. The aforementioned statement is provided for in Article 93(1) of the United Nations Charter⁽²²⁾.

About the Court's advisory jurisdiction, it permits the General Assembly, Security Council, other UN organs and (UN Association & AROC) organisations associated with the United

Nations to seek advisory opinions from the Court. Article 96 of the UN Charter states this provision⁽²³⁾.

Among the applications and decisions adopted by the International Court of Justice (ICJ) in the realm of protecting human rights, generally speaking, and the rights of minorities in particular, is the case of the Muslim Rohingya in Myanmar. This case addresses the genocide perpetrated against the Muslim minority in Burma, which was carried out by the Myanmar military through acts of premeditated killing, arson, and rape. These atrocities resulted in the displacement of a large number of citizens to Bangladesh in 2017. The ICJ intervened in this matter following a formal application submitted by The Gambia, which detailed the criminal acts that had occurred. Consequently, the Court decided to convene a hearing at The Gambia's request to find a resolution to this case. The International Court of Justice acknowledged Myanmar's jurisdiction, and therefore the Court ordered Myanmar to take the necessary measures to cease acts of genocide as defined by Article II of the Convention on Genocide; prevent future acts of genocide from occurring; and preserve all evidence related to the case⁽²⁴⁾.

Section Two

Role of International and Regional Mechanisms in Protecting Minority Rights Internationally.

There has been a large-scale effort to lay down the principles that will be the basis of the rights of minorities and to define by way of treaties the obligations and commitments of Countries towards their own minorities. At the same time, the dynamics of international relations in the period following the League of Nations were very different from what they had been during the League's existence. Therefore, these changes in international relations changed the entire minority protection regime and, as a result, created a significant divergence between minority protection as defined by the two differing international systems. The international community is fully supportive of establishing monitoring mechanisms for the protection of human rights generally and for the protection of the rights of minorities specifically. Additionally, it stresses the importance of recognising the importance of these mechanisms of monitoring by considering them an expression of the concern of the public in relation to human rights within the human community, and the obligation of states to protect those rights and be responsible for fulfilling their obligations under international human rights law. As a result, protecting the human rights of minorities has become a global concern due to the increasing momentum of

democratic discussion, the demand for freedom and emancipation, and global change at a higher level than before. A sense of cohesion has emerged regarding the provision of protection for minorities and the respect for human rights; this has led to the adoption of clear legal instruments directed at the international community to safeguard minority rights.

Based on the foregoing, we shall divide this section into two branches, as follows:

Branch One: European Guarantees for the Protection of Minorities.

Branch Two: Other Regional Guarantees for the Protection of Minorities.

Branch One

European Guarantees for the Protection of Minorities

First: The European Court:

The European Court is considered the highest judicial body situated on the European continent. The Court is headquartered in Strasbourg, a city located in northeastern France. The mission of this Court is to provide judicial protection for the rights of the states that are members of the Council of Europe. The Court was established in 1959.

The primary objective behind the establishment of the European Court is to ensure respect for the obligations undertaken by the Contracting Parties. The Court's operations and institutional existence are governed by established principles that remain immutable. The European Court of Human Rights comprises several judges equal to the number of member states within the Council of Europe. The Court's statutes expressly prohibit the presence of two judges of the same nationality or from the same country serving simultaneously within the Court⁽²⁵⁾. Furthermore, any High Contracting Party to the European Convention has the right to refer to the Court any alleged breach of the Convention's provisions or those of its associated protocols committed by any other High Contracting Party⁽²⁶⁾. Furthermore, it is not necessary for the State submitting a petition or application to have a personal interest in initiating the proceedings; rather, all States Parties to the Convention may bring the case on behalf of all States parties to the Agreement all of whom act to safeguard the public interest within the European system a matter that truly falls within the purview of European states⁽²⁷⁾.

For a complaint to be admissible before the European Court of Human Rights, several

conditions stipulated in Article 35⁽²⁸⁾ of Protocol No. 11 must be met. Among these conditions is that the Committee of Ministers is the body responsible for overseeing the implementation of the Court's judgments; furthermore, the Court's judgment is final, and the states concerned by the decision are bound to accept it and comply with its implementation.

It became evident that, in the period preceding the adoption of Protocol No. 11 in 1998, individuals were not permitted to submit their complaints directly to the Court; rather, such complaints were referred to the Commission. However, following the abolition of the Commission, the Court began to examine complaints directly, a development that offers distinct advantages, promotes justice, enables members of minority groups to submit their grievances to the Court freely and easily, and safeguards their rights.

The Court also affirms the specific applicability of human rights in instances where a state exercises effective control over a foreign national or foreign territory. Moreover, the Court adopts a distinct stance regarding the immediate application and the complementary role of human rights law vis-à-vis international humanitarian law⁽²⁹⁾.

In the case of *Aksoy v. Turkey* (Application No. 21987/39, 18 December 1996), the Court proceeded to examine the case and scrutinized instances of non-compliance with human rights standards—violations that any state might commit on grounds of public order⁽³⁰⁾, particularly in the name of combating terrorism within its own territory—and further stipulated that The obligation to prohibit and investigate the ill-treatment and torture of persons detained within this exceptional legal framework was affirmed; the Court recognized that it is incumbent upon each Contracting State—within the limits of its responsibility for the life of its nation—to determine whether that life is threatened by a "public emergency," and, if so, to act accordingly.

Second: The European Commission of Human Rights:

The European Commission consists of representatives from all States Parties to the Convention, with each State represented by a single member. Members are selected through an election conducted by the Committee of Ministers—a body within the Council of Europe. The term of membership is six years, renewable only once⁽³¹⁾.

This Commission is the Court of Claims laid before it, whether by States in their sovereign capacity or by private persons. Such claims may be based on discrimination or persecution of

members of a minority in any State party to the Convention, or on the denial to such a minority of the right of peaceful association amongst themselves, or the limitation or infringement of any of the rights guaranteed to them by the Convention. The High Contracting Party against whom the claims are directed must have recognised the competence of the European Commission⁽³²⁾.

Likewise, the European Commission may receive complaints directed to the Secretary-General of the Council of Europe by private individuals or by international non-governmental organisations, as long as the complainants describe themselves as victims of an infringement of rights as envisaged in Article 25 of the European Convention on Human Rights. The people of Europe have tried to keep watch upon the way in which their respective governments treat the principle of human rights. If they consider that a human right has been violated, they may complain to the European Commission of Human Rights against their Government, and it is for the Commission to refer the complaint to the competent European Court of Human Rights for adjudication⁽³³⁾.

Let us take the European Commission of Human Rights and Protocol No. 11 of 1998, whereby the Commission, which used to be a two-headed monster, became a bottleneck for procedure between the complainant and the Court. Since the Commission was only responsible for registering the complaints and sending them on to the European Court, justice has taken a big step forward and drawn a little closer to the public.

Third: The Council of Europe for the Protection of Minority Rights:

The Council of Europe is also regarded as the most advanced international system which exists; protection of human rights appears to be an invention of Europe; the Council has, in fact, drawn up an extensive set of norms and standards for their protection. With an international legal personality and formed by the nations of Western Europe with a Statute drafted by them and setting out the ideas on which it should be based, the Council lavishes its efforts on human rights, and the promotion and safeguard of fundamental freedoms, the guarantee of individual liberty and the right of individual citizens to have some political participation as a strengthening of democracy⁽³⁴⁾.

No doubt, the question of minority rights was never far from the thoughts of the Council of Europe, but in 1961 it nevertheless adopted a special provision dealing with them—a provision

designed to give these a few “rights” other than those listed in the Convention, First Optional Protocol and Article 27 of the International Covenant on Civil and Political Rights. One of the most prominent achievements of the European Council in the field of minority rights protection was the inclusion of provisions to this effect in the 1994 Copenhagen Treaty, establishing that a state’s accession to the European Union is conditional upon its recognition of and provision of appropriate protection for minorities⁽³⁵⁾. However, this role proved short-lived, as it encountered objections from member states due to a lack of political will; ultimately, the Council adopted a proposal emphasising the universality of human rights and the provision of protection for individuals.

Regarding the protection of minority rights and in response to the abuses previously suffered by minorities in Yugoslavia, the Council of Europe imposed economic sanctions on Yugoslavia and severed economic ties with the country⁽³⁶⁾.

The fear of dictatorship and the imperative for economic growth were among the primary driving forces behind the establishment of the Council of Europe. The Council’s principal strategy within the regional framework has been to foster greater unity and to entrench these rights as a guarantee for the realisation of democracy, notwithstanding the caution that has historically characterised the Council of Europe’s approach to the protection of minority rights⁽³⁶⁾.

Section Two

Other Regional Guarantees for the Protection of Minorities

Immediately after the end of the Second World War, however, the protection of minorities was not limited to the United Nations and its subsidiary organs. During the second half of the twentieth century, this particular branch of public international law rapidly developed and spread into other branches, the main achievements having been the noteworthy ones realised at the regional organisation level. Article 27 of the Covenant owes much of its great reputation to many respectable organs, which never found it practicable to enter the road opened up for them. Interest in the improvement of minority rights does not extend to all the regional organisations existing on the face of the earth, but the main organs which have set a precedent in this field are the Council of Europe, the League of Arab States and the African Union.

As regards the European Union and the protection of rights of minorities, the scope of effort

with regard to the rights of minorities by the European Union, just like the scope of general human rights protection from the European Union, has been somewhat limited. It thus relies on protection for the minorities from the broader European regional system and the international legal system⁽³⁷⁾.

Moreover, the European Convention on Human Rights, an instrument dedicated to human rights, declared itself to be against all discrimination in society by reason of language, association or religion.

First: The League of Arab States:

The League of Arab States was established on 22 March 1945, and comprises 22 Arab states, each of which recognises Arabic as its official language. It works as a regional organisation to strengthen the relations among the members of the League and to coordinate their social, political, cultural, economic and security-related activities. Its purpose is to achieve unity, protect the homeland, empower the Arab states and protect its sovereignty - human rights in general and minorities in particular. On 22 May 2004, the Council of the League of Arab States adopted the Arab Charter on Human Rights, composed of a preamble and fifty-three articles. After more than three years, entering into force on 15 March 2008, following its ratification by the Arab states⁽³⁸⁾, in accordance with the provisions outlined in Article 49 of the Arab Charter on Human Rights⁽³⁹⁾.

Furthermore, the Arab Charter on Human Rights contains numerous provisions emphasising the imperative to protect individuals, guarantee their personal and public rights, ensure that their freedoms—including the freedom to practice religion—are not restricted, and reject discrimination among members of society. These principles are articulated in Article 3, Paragraph 1, and Article 30 of the Arab Charter on Human Rights⁽⁴⁰⁾.

Wagih Hanafi, Assistant Secretary-General and Head of the Legal Affairs Sector at the League of Arab States, urged States to adopt the necessary social, cultural, political and legal mechanisms and measures to ensure minorities within their borders enjoyment of their rights and freedoms as well as their right to practise their religious rites and social and cultural rituals within applicable laws and create the appropriate environment for the dissemination, promotion and entrenching of a culture of inclusion. He stressed the urgent necessity of fighting hate speech and said debates continued as to whether incitement to hatred was compatible with

freedom of opinion and expression. but prohibiting or restricting the right to worship in such a way would violate other fundamental rights such as the right to carry out the rites and social and cultural rituals of one's choice, the right to life, the right to social welfare, the right to enjoy human rights as well as political and civil liberties without discrimination, to enjoy human rights as well as political and civil liberties without discrimination, in accordance with national laws⁽⁴¹⁾.

As for the League of Arab States' stance on human rights at the international level, the Arab Charter on Human Rights affirms in its Preamble its confidence in the rule of law and the pivotal role of law in protecting human rights in general, without discrimination. It underscores that every individual is entitled to justice, freedom, and the principle of equal opportunity within society. Moreover, as stipulated in Article 4(1) of the Arab Charter on Human Rights, all human rights are inherently interconnected and indivisible⁽⁴²⁾.

Second: The African Conference on the Protection of Minority Rights:

Following the conclusion of the African Conference held in Monrovia, Liberia, in 1979, during which African heads of state were called upon to draft a charter on human and peoples' rights, a call to which they duly responded, a group of experts convened in Dakar to formulate a preliminary draft of the charter. This draft was subsequently deliberated upon by the Council of Ministers of the Organisation of African Unity (OAU) in 1980 and again in January 1981. Subsequently, the draft charter was presented to the African Summit in Nairobi in early June 1981, following its approval by a majority of the member states of the Organisation of African Unity⁽⁴³⁾.

The African Conference protected the human rights of Africans in general (although minorities were not mentioned) to avoid creating conflict where, otherwise, it might arise between minority groups, and which continues to this moment to exist within African society. This principle was confirmed in the African Charter on Human and Peoples' Rights, in the text of Articles 2 and 3. Furthermore, the African Conference emphasised respect for religious practices and freedom of opinion, a principle explicitly enshrined in Article 8 of the African Charter on Human and Peoples' Rights⁽⁴⁴⁾.

In 1998, the African Union undertook the initiative to adopt a Protocol establishing an African Court on Human and Peoples' Rights⁽⁴⁵⁾. This Court is to come into force immediately after the

Protocol shall have been ratified by fifteen states. After the Protocol was successfully concluded and ratified by more than fifteen states, the Court began work on 25 January 2004⁽⁴⁶⁾. Concurrently, the Court of Justice of the African Union was established, but the two became combined into one - the African Court of Justice and Human and Peoples' Rights under a Protocol adopted on 1 July 2008⁽⁴⁷⁾. This consolidated body has the authority to pronounce legally binding decisions, thus taking a bold step towards the establishment of a robust regional human rights system in Africa ⁽⁴⁸⁾.

Having thus reviewed some of the various international and regional bodies established specifically for the protection of minority rights, we have no doubt that all such bodies had in mind the protection and promotion of human rights in the broad sense, and, specifically, human rights as pertaining to minorities. This is even the case where minorities are nowhere specifically referred to, but their rights are referred to implicitly by virtue of provisions of constitutions enshrining, but implicitly, the right of all before the law and equal protection of it, without distinction; possibly, because of a desire to avoid naming them out of fear of starting inter-community conflicts, as is suggested by the African union. In that regard, we recommend that international bodies and regional organisations should draft legislation relating specifically to the protection and promotion of the rights of minorities. It is only fair that these groups of people be given specific, clearer protection under the law.

Conclusion:

As this research illustrates, the protection of the rights of minorities has come to represent an important contemporary problem in international law, and the United Nations and regional organisations have laboured hard to develop appropriate norms and institutional mechanisms to aggrandise rights of this nature. However, the possibilities for their actual protection continue to be bedevilled both by the exigencies of the political world and by state sovereignty, as well as by weaknesses in the implementation mechanisms themselves. There is an obvious continuing need for international organisations to do a better job at cooperating and for constitutional lawyers to invent ways to better assure that the human right to freedom from discrimination is actually respected.

Results:

1. There is increasing interest internationally in the project of protecting the rights of

minorities as part of the adventure of human rights.

2. And in some situations, there is no independent and directly international system for the protection of minorities.
3. International courts are important means of holding violators to account, but they depend on the cooperation of states.
4. Regional mechanisms, especially in Europe, are more developed and more effective than others.
5. Political considerations continue to constitute a major obstacle to the effective implementation of international protection.

Recommendations:

1. The need for an international agreement directly devoted to the protection of minority rights.
2. Strengthening the powers of international bodies to ensure the binding implementation of their resolutions.
3. Supporting the role of international courts and expanding their jurisdiction to encompass a broader range of violations related to minorities.
4. Encouraging states to accede to international and regional human rights conventions.
5. Promoting a culture of human rights and tolerance within societies to curb violations against minorities.

Footnotes:

1. Ali Muhammad Ismail, *Al-Wajiz fi al-Munazzamat al-Duwaliyyah* [A Concise Guide to International Organisations], Cairo, Dar al-Kutub al-Jami'i, 1982, p. 270.
2. Muhammad Yusuf Alwan and Muhammad Khalil Musa, *Al-Qanun al-Duwali li-Huquq al-Insan: al-Masadir wa-Wasa'il al-Raqabah* [International Human Rights Law: Sources and Mechanisms of Oversight], Vol. 1, Dar al-Thaqafah for Publishing and Distribution, Amman, Jordan, 2003, p. 469.
3. Izzat Sa'id al-Sayyid, "The Protection of Minorities under Contemporary International Order," article published in *The Egyptian Review of International Law*, Vol. 42, 1968, p. 31.
4. Fakhri Rashid al-Muhanna and Salah Yasin Dawood, *International Organisations*, The Legal Library, Baghdad: Al-Atik for Book Production, n.d., p. 270.
5. Mu'taz Faisal Al-Abbasi, *The Obligations of the Occupying State Towards the Occupied Country*, Halabi Legal Publications, 1st ed., Beirut, 2009, p. 88.
6. Haider Yassin Tahir Hassan Al-Yasiri, *The Impact of the New International Order on the Application of Human Rights Law* (Master's Thesis, College of Law, Al-Nahrain University, Baghdad, 2014), p. 104.
7. Baraa Munther Kamal Abdul Latif, *The Judicial System of the International Criminal Court*, 1st Edition, Dar Hamid for Publishing and Distribution, Jordan, 2008, p. 43.
8. See Article 1 of the Rome Statute: An International Criminal Court is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute. The Court shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.
9. Maha Mustafa Al-Hajj, *Terrorist Crimes Against the Yazidis in Light of Accountability Before the International Criminal Court*, Master's Thesis, Faculty of Law, Islamic University, 2021, p. 69.
10. See Article 11 of the Statute of the International Criminal Court: The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute. If a State becomes a Party to this Statute after it enters into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a declaration pursuant to paragraph 3 of Article 12.
11. Drissi Tassadit and Laamamra Abdel Moumen, *Mechanisms for the Protection of Minorities in International Law*, Master's Thesis, Faculty of Law and Political Sciences, Department of Law, Abderrahmane Mira University, Bejaia, 2013, p. 81.

12. See Article 27 of the Statute of the International Criminal Court:
 - (a) This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative, or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.
 - (b) Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.
13. See Article 6 of the Statute of the International Criminal Court: Genocide. For this Statute, "genocide" means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such:
 14. (a) Killing members of the group;
 - (b) Causing serious bodily or mental harm to members of the group;
 - (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - (d) Imposing measures intended to prevent births within the group;
 - (e) Forcibly transferring children of the group to another group.
15. Wael Ahmed Allam, *The Protection of Minority Rights in Public International Law*, 2nd Edition, Dar Al-Nahda Al-Arabiya, 2001, p. 204.
16. Aya Maher Bashar, *The Role of International Criminal Justice in Prosecuting Perpetrators of Acts Infringing upon Minority Rights in Iraq*, *Journal of the College of Law, Al-Nahrain University*, Issue 22, Vol. 4 (2020), p. 184.
17. Karrar Mohammed Radhi, *Legal Mechanisms for the Application of International Humanitarian Law to Minorities in Iraq* (Master's Thesis submitted to the Faculty of Law, Islamic University of Lebanon, 2020–2021), p. 99.
18. Maha Mustafa Al-Hajj, *Terrorist Crimes Against the Yazidis in Light of Accountability Before the International Criminal Court* (Master's Thesis submitted to the Council of the Faculty of Law, Islamic University of Lebanon, 2021), p. 98.
19. See Article 92, Chapter XIV of the Statute of the International Court of Justice: It is the principal judicial organ of the United Nations; it shall function in accordance with its Statute, which is annexed to the present Charter and is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.
20. Ibrahim Muammar, *The Role of the United Nations vis-à-vis Minorities: A Case Study*

of Palestinian Minorities in Israel (2000–2010), 1st ed. (Beirut, Lebanon: Arab Centre for Research and Policy Studies, 2019), p. 32.

21. Salah Jubair Al-Basisi, *The Role of the International Court of Justice in Developing the Principles of International Humanitarian Law* (PhD dissertation, College of Law, University of Baghdad, 2006), p. 31.
22. See Article 93(1) of the United Nations Charter: All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice in any case to which they are a party.
23. Muhammad Khalid Bara', *Minority Rights and Their Protection under the Provisions of Public International Law* (M.A. thesis, College of Law, Al-Nahrain University), p. 157.
24. See Article 96 of the United Nations Charter: The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question. Other organs of the Organisation and specialised agencies which may at any time be so authorised by the General Assembly may also request of the Court advisory opinions on legal questions arising within the scope of their activities.
25. Karrar Mohammed Radi, *Legal Mechanisms for the Application of International Humanitarian Law to Minorities in Iraq* (Master's Thesis, Faculty of Law, The Islamic University, 2021), p. 95.
26. See Article 19 of Protocol No. 11 to the European Convention on Human Rights and Fundamental Freedoms, adopted in 1998: To ensure the observance of the undertakings entered into by the Contracting Parties to the Convention and its Protocols, a European Court of Human Rights shall be established—hereinafter referred to as "the Court"—which shall function permanently.
27. See Article 38 of the European Convention on Human Rights, adopted in 1950: The European Court of Human Rights shall consist of several judges equal to the number of members of the Council of Europe, and it may not include two judges of the same nationality.
28. Hassani Khaled, *Lectures on Human Rights, Faculty of Law and Political Sciences – Department of Basic Legal Studies, Abderrahmane Mira University – Bejaia, 2015*, p. 64.
29. See Article 35 of Protocol No. 11 to the European Convention on Human Rights: 1. The Court may deal with the matter only after all domestic remedies have been exhausted, in accordance with the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken. 2. The Court shall not deal with any individual application submitted under Article 34 which:
 - (a) is anonymous;
 - (b) has already been examined by the Court or has already been submitted to another

procedure of international investigation or settlement, and contains no relevant new information;

(c) The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application;

(d) The Court shall reject any application which it considers inadmissible under this Article, and may do so at any stage of the proceedings.

30. Françoise Bouchet-Saulnier, *The Practical Guide to Humanitarian Law*, trans. Mohamed Saad, Dar Al-Ilm Lil-Malayin, 2006, <https://ar.guide-humanitarian-law.org/content/index/>.
31. Françoise Bouchet-Saulnier, *The Practical Guide to Humanitarian Law*, op. cit.
32. Ahmed Salim Saifan, *Public Liberties and Human Rights: A Comparative Historical, Philosophical, Political, and Legal Study*, Halabi Legal Publications, 2010, p. 365.
33. Mona Mahmoud Mustafa, *International Human Rights Law*, Dar Al-Nahda Al-Arabiya, Cairo, 1989, pp. 138–140.
34. Al-Shafi'i Mahmoud Al-Bashir, *Human Rights Law: Its Sources and National and International Applications*, Mansha'at Al-Ma'arif, Alexandria, 2004, p. 316.
35. Saad Salem Sultan Al-Shabaki, *Guarantees of Minority Rights in Public International Law*, College of Law, University of Mosul, 2013, p. 72.
36. See Article 27 of the International Covenant on Civil and Political Rights: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.
37. Drissi Tassaadit and Laamamra Abdelmoumen, *Mechanisms for the Protection of Minorities under International Law*, op. cit., p. 49.
38. Riad Shafiq Shia, *Minority Rights in Light of International Law*, Dar Al-Nahar, Beirut, 1st ed., 2010, p. 109.
39. Article published online at the following link: "Minority Rights" – Wikipedia ([wikipedia.org](https://www.wikipedia.org)); last accessed on February 26, 2026.
40. Karrar Mohammed Radhi, *Legal Mechanisms for the Application of International Humanitarian Law to Minorities in Iraq*, op. cit., p. 92.
41. See Article 49 of the Arab Charter on Human Rights:

42. (a) The Secretary-General of the League of Arab States shall submit this Charter—following its approval by the Council of the League—to the Member States for signature, ratification, or accession.
- (b) This Charter shall enter into force two months after the date of deposit of the seventh instrument of ratification with the General Secretariat of the League of Arab States.
- (c) For each State, this Charter shall become effective—after it enters into force—two months after the date of deposit of its instrument of ratification or accession with the General Secretariat.
- (d) The Secretary-General shall notify the Member States of the deposit of each instrument of ratification or accession.
43. See Article 3(1) and Article 30 of the Arab Charter on Human Rights: Each State Party to this Charter undertakes to ensure to every person subject to its jurisdiction the right to enjoy the rights and freedoms outlined in this Charter, without distinction of any kind, such as race, color, sex, language, religious belief, opinion, thought, national or social origin, wealth, birth, or physical or mental disability. Article 30:
- (a) Every person has the right to freedom of thought, conscience, and religion; no restrictions may be imposed on these freedoms except as prescribed by applicable law.
- (b) A person's freedom to manifest his or her religion or belief, or to practice religious rites—either individually or in community with others—shall not be subject to any restrictions other than those prescribed by law and which are necessary in a tolerant society that respects freedoms and human rights, for the protection of public safety, public order, public health, or public morals, or for the protection of the rights and fundamental freedoms of others.
- (C) Parents or guardians have the freedom to ensure the religious and moral upbringing of their children.
44. Muhammad Amr, an article published in Al-Rai newspaper on April 3, 2014, available at the following link: <https://www.alraimedia.com/article/484> AC% %D. Site accessed on February 28, 2026.
45. See Article 4(1) of the Arab Charter on Human Rights: establishing the principle that all human rights are universal, indivisible, interdependent, and interrelated.
46. Talib Abdullah Fahd Al-Alwani, *Minority Rights in Public International Law*, 1st ed., Dar Al-Fikr Al-Jami'i, Alexandria, 2014, p. 156.
47. See Article 8 of the African Charter on Human and Peoples' Rights: Freedom of conscience and the practice of religious rites are guaranteed; no one may be subjected to measures restricting the exercise of these freedoms, subject to the law and public order.
48. Riyad Shaiqy Shia, *Minority Rights in Light of International Law*, op. cit., p. 157.

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Fifth: Laws and Statutes:

1. See Article 1 of the Rome Statute.

2. See Article 1(23) of the United Nations Charter.

3. See Article 1(3) and Article 30 of the Arab Charter on Human Rights. 4. See Article 93(1) of the United Nations Charter.

5. See Article 11 of the Statute of the International Criminal Court.

6. See Article 19 of Protocol No. 11 to the European Convention on Human Rights and Fundamental Freedoms (1998).

7. See Article 27 of the International Covenant on Civil and Political Rights.

8. See Article 27 of the Statute of the International Criminal Court.

9. See Article 35 of Protocol No. 11 to the European Convention on Human Rights.

10. See Article 4(1) of the Arab Charter on Human Rights.

11. See Article 6 of the Statute of the International Criminal Court.

12. See Article 8 of the African Charter on Human and Peoples' Rights.

13. See Article 96 of the United Nations Charter.

14. See Article 49 of the Arab Charter on Human Rights.