Università degli studi di Bergamo

DOTTORATO DI RICERCA

Scienze della Cooperazione Internazionale

"Vittorino Chizzolini"

XXV Ciclo

Rights of Religious Minorities and the Principle of Freedom

of Religion and Belief: a Human Rights Assessment

and the Case Study of the Islamic Republic of Iran

Tesi di dottorato di: Sebastiano Mussi
Supervisore: Prof. Michele Brunelli

Esame finale 2013

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This dissertation has been a long journey. It involved not only reading, research, and writing but also a constant struggle with the confidence in my capacities to bring the study to an end. If I did not give up and succumb to self-pity, it is only due to the constant support and trust of many people who have assisted and encouraged my progress.

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A Note on Transliteration

All Persian and Arabic words have been generally translated following the guidelines set by the *International Journal of the Middle Eastern Studies*.[1] However, I have not used diacritical marks with the exception of the *ayn* (') and the *hamzah* (');
moreover, *ayn* and *hamzah* are omitted at the beginning or end of words. Every effort has been made to keep the transliteration clear and concise by preserving uniformity, applying the Persian pronunciation of words as often as possible, and maintaining the common usage of words. Renowned Iranian proper names are presented as they usually appear in the press (e.g., Khamenei and Khomeini).

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[1] The guidelines are available at http://web.gc.cuny.edu/ijmes/docs/TransChart.pdf, accessed on September 29th, 2012.

Tables

List of Abbreviations

AAA	American Anthropological Association
CDHRI	Cairo Declaration of Human Rights in Islam
ECOSOC	Economic and Social Council
GA	General Assembly of the United Nations
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Covenant on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICJ	International Commission of Jurists
ILO	International Labour Organisation
IRI	Islamic Republic of Iran
NGO	Non Governmental Organization
OIC	Organization of the Islamic Conference
Q.	*Qur'an*
UN	United Nations
UN Decl. Min.	UN Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
UNHRC	United Nations Human Rights Committee
UDHR	Universal Declaration of Human Rights
UNESCO	United Nation Educational, Scientific, and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights

Introduction

The chronicles of humanity have seen the growth, prospering, and extinction of many different religions and beliefs.[1] This study examines the controversial and divisive issues of freedom of religion and belief and the rights of religious minorities. These two subjects have been sources of disagreements and conflict throughout human history and, despite substantial developments in universal human rights law, it has been reached little consensus concerning the articulation of the rights of religious minorities and freedom of religion.[2]

Religious minority protection is an integral part of universal human rights, and it falls within the scope of international cooperation between States. Moreover, as stressed by the Norwegian human rights scholar Asbjørn Eide, promotion and protection of minority rights is a primary example where international cooperation is required; however, it could represent at the same time a difficult task for many governments.[3] Governments, in fact, are affected by, and also often represent, the dominant groups in the society and their interests; what the international community demands from them is to ensure equality for all as well as the recognition and promotion of the identity of the weaker and politically less influential groups in society: every religious majority was in the past, and may become in the future, a minority. Therefore, protection of freedom of religion and belief and minority rights is essential for the validity and authenticity of all religious beliefs and practices, whether of a majority or of a minority, in any part of the world.

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[1] Rehman, Javaid. "Accommodating Religious Identities in an Islamic State: International Law, Freedom of Religion and the Rights of Religious Minorities." *International Journal on Minority and Group Rights*. 7.2 (2000), p. 139.

[2] See Krishnaswami, Arcot. *Study of Discrimination in the Matter of Religious Rights and Practices*. New York: United Nations, 1960.

[3] Eide, Asbjørn. "Mechanisms for Supervision and Remedial Action" in Weller, Marc. *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, 2007, p. 2.

1) Theoretical Framework

Protection for religious minorities in international law has a record dating back to the mid- to late 1600s[4], when successive treaties sought to provide protection for religious minorities, in part as a result of fierce religious wars that broke out in Europe, especially in France.[5] During the seventeenth and eighteenth centuries, in fact, a number of attempts were made to protect the existence and practices of religious minorities within States of Europe. These attempts frequently took the form of treaties embodying clauses relating to religious minorities. Examples include the Treaty of Vienna (1607),[6] the Peace of Westphalia (1648),[7] the Treaty of Rijswijk (1697),[8] and the Treaty of Paris (1763).[9] However, according to Human Rights scholar Nazila Ghanea, the scope of these legal agreements should not be overstated or romanticized: the protections were drawn in terms both of geography and of beneficiaries; therefore, they were discrete rather than generally applicable and the objective was the maintenance of the status quo rather than a concern for broader humanitarian issues. Nevertheless, international legal awareness of the need for particular protection for religious minorities pre-dated the emergence of the modern human rights movement by some 300 years.[10]

During the modern era of the United Nations, the international community of States has made tremendous strides in formulating standards regarding the promotion of universal human rights. "Religious freedom" has come to be enshrined as a subject worthy of independent protection in international human rights. Therefore, discrimination on the grounds of religion or belief is condemned and forms a necessary feature of the United Nations human rights charters.[11] Within this framework, it is recognized that freedom of religion and belief and rights of religious

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[4] See Thornberry, Patrick. *International Law and the Rights of Minorities*. Oxford [England: Clarendon Press, 1991, and Evans, Malcolm D. *Religious Liberty and International Law in Europe*. Cambridge: Cambridge University Press, 1997.

[5] Ghanea, Nazila. "Religious or Minority? Examining the Realisation of International Standards in Relation to Religious Minorities in the Middle East." *Religion, State and Society*. 36.3 (2008): 303-325.

[6] Thornberry, Patrick. *Op. Cit.*, p. 28.

[7] See Gross, Leo. "The Peace of Westphalia, 1648-1948." *American Journal of International Law*. 42.1 (1948): 20-41.

[8] See Baxter, Stephen B. *William III and the Defense of European Liberty, 1650-1702*. New York: Harcourt, Brace & World, 1966.

[9] See Calloway, Colin G. *The Scratch of a Pen: 1763 and the Transformation of North America*. Oxford, England: Oxford University Press, 2006.

[10] Ghanea, Nazila. *Op. Cit.*, p. 303.

[11] Rehman, Javaid. *Op. Cit.*, p. 143.

minorities represent essential and complementary instruments for the protection of religious and belief minorities.[12]

Four main sources constitute the key elements of the principle of "freedom of religion and belief": Article 18 of the Universal Declaration of Human Rights (UDHR, 1948)[13]; Article 18 of the International Covenant on Civil and Political Rights (ICCPR, 1966)[14]; General Comment 22 of the United Nations Human Rights Committee considering Article 18 of the ICCPR (HRC, GC 22, 1993)[15], and the 1981 United Nation Declaration on the Elimination of Intolerance and Discrimination on the Basis of Religion or Belief (UN, 1981)[16].

Moreover, there are three main sources which comprise the key elements of minority rights: Article 27 of the ICCPR; General Comment 23 of the Human Rights Committee on Article 27 (HRC, GC 23, 1994)[17]; and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992).[18]

These different provisions stand as the moral and legal core of protection for religious and belief minorities within the international community. Therefore, they should promote cross-cultural dialogue, encourage innovative practices, and inspire new legislations.

2) Statement of the Problem and Hypothesis of the Study

The aforementioned provisions from different international human rights charters represent strong commitments undertaken by the international community and give the appearance of a strong consensus on issues regarding freedom of religion and protection of the rights of religious minorities. However, in reality, much of this consensus is superficial as there are serious inconsistencies and

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[12] Ghanea, Nazila. *Op. Cit.*, p. 306.
[13] Adopted 10 December 1948, GA Res. 217, UN Doc. A/810, 71.
[14] UN GA Res. 2200 (XXI) GAOR, 21st Session, Supp. 16 UKTS (1977).
[15] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 5, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15
[16] GA Res. 36/55, 36 UN GAOR Supp (no 4) at 171 UN Doc A/36/51 1981.
[17] Human Rights Committee, General Comment No. 23, Article 27 on The Rights of Minorities, 50th Session (1994), UN Doc. CCPR/C/2 I/Rev. l/Add.5, 1994, paras. 4 and 5.2., accessed 26 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument
[18] GA Res. 47/135 (Adopted 18th December 1992).

disagreements both in the meaning and in the substance of the right to freedom of religion and belief. Intolerance based on religious beliefs and disagreements over the rights of religious minorities continue to represent critical and compelling impediments to harmonious human relationships within societies. Notwithstanding persistent references to the term "religion" or "belief" within international and national instruments, it has not been possible to explain these terms in a definitive manner. Moreover, the lack of an international consensus on the definition of "religion" or "religious minorities" has produced unfortunate consequences. In some instances, for example, States have denied the existence of religious minorities and have discriminated or persecuted them as heretics and political enemies of the State.[19]

The international mechanisms for cooperation in supervision and control have at times met reluctance and opposition on the part of States, because these have seen such mechanisms as international interference in what, under the traditional international law of coexistence, was treated purely as a realm of internal affairs. Governments have then remained hesitant in giving concrete shape to minority rights.[20]

A major obstacle in attaining a consensus on the subject has been the attitude of certain States which purport to follow a particular cultural or religious tradition which prevent them to adhere to universal human rights as they are defined today. However, the central hypothesis of the present study is that restrictions on religious freedom and violation of the rights of religious and belief minorities have not been caused by any inherent contradictions between a particular religious or cultural tradition and modern human rights norms; rather, substantial violations of minority rights have been a consequence of political and constitutional inadequacies and an exclusive emphasis on forging nationhood on the basis of a single and exclusive religious identity.

This hypothesis is supported by the conviction that a detailed knowledge of events and of how rights are applied prevents us to give credence to a State's arguments rationalizing human rights violations based on cultural and religious

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[19] Rehman, Javaid. *Op. Cit.*, p. 143.
[20] See Eide, Asbjørn. *Op. Cit.*, p. 2.

peculiarity and diversity.[21] Only by examining States' actual application of rights it is then possible to determine whether the international community has achieved a consensus with respect to a particular abstract moral claim. What is needed is a critical defense of universal human rights in a way that gives room for different cultural and religious interpretations and, at the same time, avoids the pitfalls of extreme or absolute cultural relativism.

3) The Case Study Approach

In order to prove the validity of the above-mentioned hypothesis, I will take into consideration the case of the Islamic Republic of Iran. While upholding international human rights norms, in fact, the practice of the Iranian state has been problematic and contradictory. Thus, "*on the one hand [Iran] appears to value its membership of the United Nations. On the other, it denounces most declarations and conventions of the UN, which it has signed and ratified, including the Universal Declaration of Human Rights as contrary to the will of God. It claims that most Charters and protocols of the UN are imposed on 'the dispossessed' of the world by 'the arrogant powers', meaning the West.*"[22]

While Iran has never been under direct European colonial rule, it shares with States that emerged from the rubble of colonialism a concern to preserve its political geography and maintain its national identity. The Iranian State, however, represents a mixture of religious, ethnic, and linguistic communities. Besides the Twelver Shi'a majority, amongst the religious and ethnic minorities, there are, *inter alia*, Sunnis, Jews, Zoroastrians, Armenians, Baha'is, Kurds, Baluchis, Azaris, Arabs, Turcomans.[23]

In order to provide concrete knowledge of events and of how religious minority rights are concretely applied, in-depth life-history interviews with 18 members of religious and belief minorities living in Iran will be presented.

The logic behind concentrating efforts on one case study rather than many is that there may be insights to be gained from looking at the individual case study that

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[21] Afshari, Reza. *Human Rights in Iran: The Abuse of Cultural Relativism*. Philadelphia, PA: University of Pennsylvania Press, 2001, p. 7.

[22] Boyle, Kevin, and Juliet Sheen. *Freedom of Religion and Belief: A World Report*. London: Routledge, 1997, p. 417.

[23] See Minority Rights Group, (ed.). *World Directory of Minorities.* London: Minority Rights Group, 1997.

can have wider implications and, importantly, that would not have come to light through the use of a research strategy that tried to cover a large number of instances. The aim is, therefore, to illuminate the general by looking at the particular.[24]

4) Purpose of the Study

The purpose of this research is to develop, a better understanding of the factors that may impinge on a universal implementation of minority rights and freedom of religion and belief. Our understanding of these factors is enhanced both through a theoretical and a practical analysis. At first, a study of the modern human rights history, philosophy, and legislation is undertaken in order to better ground the issue of universal minority rights. Secondly, the case study of the Islamic Republic of Iran is presented and in-depth life-history interviews are reported with the aim of gaining concrete knowledge of experiences and practices from members of religious and belief minorities.

I hope that disseminating the stories of 18 members of religious and belief minorities living in Iran will lead to acknowledging the need for universal protections and promotion of religious and belief diversity.

5) Research Questions

To fulfill the purpose of the study, a central question was formulated and had to be answered:

- Is it possible to uphold religious minority rights and freedom of religion and belief on a universal scale?

Sub-questions for this question were developed and tackled throughout the chapters of this research:

- What is meant by human rights?

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[24] Denscombe, Martyn. *The Good Research Guide: For Small-Scale Social Research Projects*. Maidenhead: Open University Press, 2007, p. 35.

- Is the concept of human rights only a Western concept?
- Are there universal human rights?
- What is cultural relativism?
- How can we reconcile cultural diversity and respect for universal human rights?
- What is a religious minority?
- Are there group rights?
- Which are the most important instruments that uphold the rights of religious minorities and the freedom of religion and belief in the international law?
- What is the stance of the Islamic tradition regarding religious minorities?
- What does the legislation of the Islamic Republic of Iran say about religious minorities and freedom of religion or belief?
- How do religious minorities live in Iran?
- How do they relate to the State, the Shiite majority, and other minority groups?
- What rights are practically guaranteed to them?

6) Significance of the Study

There is limited research on religious and belief minorities in contemporary Iran;[25] or about the experiences of their members concerning the profession and practice of their beliefs, their interaction with the government and the rest of the Iranian society. This study, by documenting the experiences of 18 members of religious and belief minorities living in Iran, tries to bridge this gap in the literature and studies on contemporary Iran; moreover, it contributes to shed some light on concrete issues related to universal minority rights and freedom of religion and belief. It is essential that the research seeks first to understand and explain these complementary aspects of religious minorities' protection and then the possible causes that restrict their implementation.

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[25] See, for example, Sanasarian, Eliz. *Religious Minorities in Iran*. Cambridge: Cambridge University Press, 2000, and Afshari, Reza. *Op. Cit.*.

If the experiences and stories of people belonging to religious or belief minorities are not known or told, then the institutions of international cooperation that are in charge of supervision and control are uninformed about how to serve these groups. This study intends to collect and disseminate such stories. It is essential for research to explore the experiences of these people, and for the findings to be shared with policy-makers, educators, and civil societies around the world.

Ultimately, if awareness and sensitivity on these issues are enhanced, it will be easier for the international community to uphold minority rights and freedom of religion and belief on a universal scale.

7) Definition of Terms

The following terms are defined as they are used in the study. These definitions are based on international documents and, therefore, may be potentially shared and accepted by an international audience. A more detailed and theoretical explanation will be provided in the chapters.

- Minority: for the purpose of this research, a religious or belief minority will be considered a group of human beings classified, among other things, by their religious belief, within the context of a larger society in which they are in a non-dominant position. The term "minority" could also refer to an individual member of such a group.

- Religion: a religion is identified as the orientation of the individual toward what he or she believes are the ultimate truths of reality, as well as the words and acts by which he or she externalizes those truths. Such definition includes both the internal beliefs, known as the *forum internum*, and the *forum externum*, where one manifests religion or belief.

- Human Rights: human rights are defined as legally enforceable moral claims or entitlements that are held by an individual human being vis-à-vis the State government, for the protection of the inherent human dignity of the human being. At the same time, human rights are legitimate, valid, justified claims, proclaimed by every human beings

upon his or her own society. They are claims to guarantees and safeguards, and to goods and benefits that are essential to personal well-being and dignity. The UN Training Manual on Human Rights Monitoring states that human rights "*are universal legal guarantees protecting individuals and groups against actions by governments that interfere with fundamental freedoms and human dignity.*"[26]

- Culture: the term culture is used in its broadest sense as the "*totality of values, institutions, and forms of behavior transmitted within a society, as well as the material goods produced by man and woman; this wide conception of culture covers world view, ideologies and cognitive behavior.*"[27] Culture is, therefore, the source of the individual and communal world view: it provides both the individual and the community with the values and interests to be pursued in life, as well as the legitimate means for pursuing them. It stipulates the norms and values that contribute to people's perception of their self-interest and the goals and methods of individual and collective struggles for power within a society and between societies. As such, culture is a primary force in the socialization of individuals and a major determinant of the consciousness and experience of the community.[28]

8) Structure of the Study

The first chapter reviews the existing human rights literature that is relevant to this study. The aim is to investigate the genesis of the modern concept of human rights, to outline the universalist approach, and to illustrate the cultural relativist position. This chapter tries to answer the preliminary set of questions: What is meant by human rights? Are there universal human rights? Is the concept of human rights only a Western concept? What is cultural relativism? How can we reconcile cultural diversity and respect for universal human rights?

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[26] Office of the High Commissioner for Human Rights. Training Manual on Human Rights Monitoring. United Nations: New York/Geneva, 2001. Accessible at http://www.ohchr.org/Documents/Publications/training7Introen.pdf
[27] An-Na'im Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. Philadelphia: University of Pennsylvania Press, 1992, p. 3.
[28] Ivi, p. 18.

The second chapter tackles the specific category of rights pertaining to religious and belief minorities. It first analyzes the instruments that have been developed by the international community in order to protect and promote religious freedom and minority rights. Then, it focuses on the Islamic legal tradition and on the legislation of the Islamic Republic of Iran with the intention of defining the case study of the research. The second chapter answers to the second set of questions: What is a religious minority? Are there group rights? Which are the most important instruments that uphold the rights of religious minorities and the freedom of religion and belief in the international law? What is the stance of the Islamic legal tradition regarding religious minorities? What does the legislation of the Islamic Republic of Iran say about religious minorities and freedom of religion or belief?

The third chapter presents the Iranian religious minorities and highlights their features and peculiarities, as well as their presence in the main events of the Iranian history. Most of the religious minorities have lived in Iran for over a millennium under varying degrees of security, prosperity, persecution, or oppression. However, they have been able to preserve their religions, languages, and cultural practices, and often they have drawn strength from them to adapt to new economic, social, and political circumstances. The story of the Iranian religious minorities is intimately connected with the circumstances of Iran as a country. Therefore, insights to Iranian history, policy, and society are obtained through the prism of the religious minorities' condition.

The third chapter provides a frame of reference with respect to the interviews with members belonging to religious and belief minorities in Iran that are reported in the fourth and final chapter of the study.

The fourth chapter describes, in its first part, the research qualitative approach and the methodology employed for the field research. It also provides a rationale for sampling, data collection, and data analysis. The second part presents a report of each participant's story and describes the themes that have emerged during the interviews. This last chapter attempts to answer the final set of questions: How do religious minorities live in Iran? How do they relate to the State, the Shiite majority, and other minority groups? What rights are practically guaranteed to them?

Finally, the conclusion addresses the research questions and the main findings of the study.

Chapter 1

Modern Human Rights Discourse: Universality and Cultural Relativism

"As far as human rights are concerned, whether Easterner, or Westerner, Southerner, or Northerner, white or black or yellow – no matter – all individual human beings have the same rights from birth to death. We are all the same."

Dalai Lama - Vienna Human Rights Conference, 1993

The aim of the first part of the research is to investigate the genesis of the modern concept of human rights, to outline the universalist approach, and to illustrate the cultural relativist position. What is meant by human rights? Are there universal human rights? Is the concept of human rights only a Western concept? What is cultural relativism? How can we reconcile cultural diversity and respect for universal human rights?

Since the present work focuses, in its second part, on a specific category of human rights -those related to religious minorities- it is deemed essential to first introduce the broad context and general discourse on human rights to which religious minorities' rights belong. This introduction is also important to prepare the ground for a discussion aimed at situating religious minorities in the human rights policy of the Islamic Republic of Iran.

1) Human Rights: History and Evolution of a Revolutionary Concept

In the twentieth century, the term "human rights" replaced earlier expressions such as that of "natural rights" (*lex naturalis*) used in classical Greek and Roman thought, that of "natural law" (*jus naturalis*) and of "law of nations" (*jus gentium*) used in Roman law and during the Middle Ages, and, since the modern era and the French and American revolutions, that of "laws of nature" and of "rights of men."

The evolution has not taken place only in terminology, but it has brought important changes in moral, social, and political ideas. In our efforts to trace this fascinating and intricate historical developments that have led to the modern notion of "human rights" since the end of World War II and the foundation of the United Nations (UN) in 1945, we should bear in mind two important warnings presented by the German philosopher and current United Nations Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt.[1] He highlights that the genesis of the modern conceptions of human rights can be linked to the religious, philosophical, and cultural sources of the Western tradition, and that this tradition may provide a number of humanitarian, egalitarian, and universalist themes that have helped to shape the modern principles of human rights. Nevertheless, Bielefeldt warns us against adopting an essentialist approach to history and tradition and holds that, even if a multiplicity of such themes can be identified in the Western tradition, we should look at this tradition as "*merely an abstract conception covering different, and often antagonistic, currents and movements.*"[2] Furthermore, according to the German philosopher, we should avoid to look at the chain of historic events with an "Hegelian" lens that presupposes a concealed plan of history, according to which

> antiquity harbors the 'cultural genes' of what later ripened and finally culminated in the modern era. Modern democracy, thus, appears to have its 'roots' in the ancient Greek polis. Likewise, modern standards of human rights seem to be grounded in the basic sources of Occidental culture, religion, and philosophy at large. And even modern secularism often is traced back to the Bible, for example, to the word of Jesus:

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[1] He was appointed on 1 August, 2010, succeeding Asma Jahangir from Pakistan.
[2] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights Conceptions? A Critique of Cultural Essentialism in the Discussion on Human Rights." *Political Theory*. 28.1 (2000), p. 99.

'render unto Cesar the things which are Cesar's and unto God the things that are God's' (Matthew 22:21).[3]

This Hegelian way of thinking could easily lead to an essentialist appropriation of ideas as an exclusive heritage of a particular culture. However, we should consider that human history is contingent and it does not develop in the way of a "natural unfolding" of a preexisting cultural potential.

Hence, Bielefeldt invites us to pay attention to the particular hermeneutic standpoint from which we look at history. Connecting human rights to humanitarian elements within religious, philosophical, or cultural traditions is in fact possible only from the standpoint of modernity.

> It is from a modern standpoint that we can discover traditional humanitarian motifs that allow building a bridge between the present and the past. It is in retrospective that we see an analogy between modern ideas of human dignity and the Biblical message of the person being an image of God. By looking back into the past, we can trace the genesis of the rule of law to the 1215 'Magna Charta' and other medieval or ancient documents.[4]

This hermeneutic awareness, therefore, should make us conscious that the previously mentioned traditional ideas are not "roots" or "sources" that carry the potential of modern human rights -a potential that actually has gradually matured in the history of human societies across the world. It is the other way around, for it is the modern conception of human rights that informs the standpoint from which we can retrospectively discover humanitarian motives that facilitate a critical reconstruction of aspects of continuity between the present and the past. In such a hermeneutical retrospective, we must be aware not only of aspects of continuity but also of experiences of discontinuity and change.

1.1) Historical Perspectives

Keeping in mind Bielefeldt's important admonitions, we could briefly look at the history of rights in the Western tradition, before the introduction of the modern concept of human rights.

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[3] Ibidem. See also Matthew 22:21. La Sacra Bibbia. Roma: Edizioni Paoline, 1964.
[4] Ivi, pp. 99-100.

Within the Greek philosophical tradition, Plato (424/423- 348/347 BCE) first distinguished, in the *Dialogues*, between the notion of *nomos*, which are those human customs and laws subject to change, and the notion of *phisis,* which is the immutable nature. This contrast can be identified as a means to discern certain conduct as universally just or unjust, right or wrong.[5] Furthermore, in the *Republic*, the Greek philosopher argued that a universal standard of moral justice that transcends immediate circumstances exists and allows people in different political systems to recognize that some actions are clearly just and others are unjust.[6]

At the same time, Aristotle (384-322 BCE), in the *Nicomachean Ethics*, distinguished between conventional or legal notions of justice and justice under natural law. Aristotle, however, had a clear conception of citizens' rights but no conception of human rights, since citizens' rights did not extend to women, slaves, and foreigners.[7] In classical Athenian democracy, only citizens of the city-state could enjoy the protection of natural law, and they accounted for less than 50 percent of Athens' population.[8]

Subsequently, the Stoic philosophers developed the idea of a universal natural law, arguing that the human nature was part of the natural order and, like it, was governed by reason (*logos*). The law of nature was the law of human nature, and that law was reason, or at least right reason. Through the instrument of this reason, natural law could be discerned and obeyed. Marcus Tullius Cicero, a Roman lawyer writing in the first century BCE, provided what became the classic synthesis of many of these ideas of a universal, unchanging, higher natural law to which all humans and their laws were subject, and which could be accessed through reason. In *On the Laws*, Cicero observed that:

> True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting […] It is a sin to try to alter this law […] We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome or Athens, or different laws now and in the future, but one eternal and unchangeable law

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[5] Plato. *Dialogues*. Translated by Benjamin Jowett. Oxford: Clarendon Press, 1953.

[6] Plato. *The Republic*. Edited by G. R. F. Ferrari. Translated by Tom Griffith. Cambridge: Cambridge University Press, 2000.

[7] See Aristotle. *Nicomachean Ethics*. Translated by Martin Ostwald Indianapolis: Bobbs-Merrill, 1962.

[8] Walters, Gregory J. *Human Rights in Theory and Practice: A Selected and Annotated Bibliography*. Metuchen, N.J: Scarecrow Press, 1995, p. 6.

will be valid for all nations and at all times, and there will be one master and ruler, that is, God, over us all, for he is the author of this law [...] and its enforcing judge.[9]

From these ideas, the Roman conception of *jus gentium*, or the law of nations, originated. This law prescribed rights and duties that were universal and additional to any law simply derived from State citizenship. This law of nations derived from nature rather than the State and, therefore, established certain universal duties and rights that extended to all human beings as members of the world community as a whole.[10]

The Roman emperor Marcus Aurelius (121-180 CE), one of the most prominent Stoic authors, taught that the human spirit emerges from divinity. He further pointed out that all human beings intimately belong together; therefore, they constitute one family united not by physical bonds of blood and seed but primarily by their common participation in the divine *logos*.[11] In Rome, though, the emperor ruled as the son of the gods –or in the case of August Caesar, as God – and then the idea of a right to recourse against the emperor's will was absurd. Greek and Roman classical philosophy, therefore, recognized the idea of citizens' rights and also that of universal natural law, but did not combine them in the concept of universal human rights.

The idea of rights passed from the classical to the modern world through medieval Christian philosophy, which called for a spiritual unity of all humanity. Christian philosophy incorporated the classical idea of natural law into the Christian conception of divine law.[12] Like Stoicism, Christianity promoted a notion of equal moral status for all human beings. But whereas the Stoics grounded moral equality on the human capacity to reason, Christian saw individuals as equal by virtue of their capacity to love their neighbors as themselves.[13] A religious and ethical motif that has often been summoned as a main source of human rights is, for example, the Biblical idea that all human beings have equally been "created in the image of God"

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[9] Marcus Tullius Cicero, *De Legibus*. New York: Putnam, 1928, book 1, 5-16, pp. 317-45; and Marcus Tullius Cicero, *De Re Publica*. New York: Putnam, 1928, book 2, 22, p. 211.
[10] Lauren, Paul G. *The Evolution of International Human Rights: Visions Seen*. Philadelphia: University of Pennsylvania Press, 2003, p. 13.
[11] Marcus, Aurelius. *Meditations of Marcus Aurelius*. Edited by Meric Casaubon. New York: Heritage Press, 1956.
[12] Smith, Rhona K. M, and Christien, Anker. *The Essentials of Human Rights*. London: Hodder Arnold, 2005, p. 152.
[13] Ishay, Micheline. *The History of Human Rights: From Ancient Times to the Globalization Era.* Berkeley: University of California Press, 2004, pp. 25-26.

and have thus been endowed with an unalienable dignity.[14] Referring to the special rank of the human person as an "image of God," the Bible states that the shedding of human blood must be considered one of the gravest crimes.[15] In the New Testament the principle of equality before God takes the place of social and ethnic difference.[16] "*There is no such thing as Jew and Greek*," advocated the apostle Paul, "*slave and freeman, male and female: for you are all one person in Jesus Christ.*"[17]

Jewish-Christian as well as Stoic and other motifs have thus jointly formed the European natural law tradition that stretches from antiquity to modernity.

In the Middle Ages, various power-holders, such as landowners and urban corporations, started asserting claims to customary and legal rights against monarchs, seeking to increase their own power and wealth. The Magna Charta of 1215 is a glaring example of such demands. It defined the rights of English barons and citizens against the crown, grounding its limitation of royal patronage and exploitation and affirming the right of religious freedom by appeal to the authority of tradition and God. "*To no one*," read the text, "*will we deny or delay right and justice.*"[18] However, the Magna Charta was concerned with the establishment of a *modus vivendi* for those who had to share power; the rights were not based on human nature and they did not apply to all human beings.[19]

Along with the nascent constitutionalism of the Magna Charta, there was the renewed natural law philosophy of Saint Thomas Aquinas. The Christian philosopher, writing in the thirteenth century, redefined the system of natural law as being divinely willed and posited the duality of human existence wherein all people were subject both to the authority of humankind and to the authority of God.[20] Aquinas believed that justice represented the love of the divine, and thus posited the radical concept that if laws were not just then people had the right to disobey them. These concepts received even further elaboration in the writings of Christian humanists and reformers who drew on religious precepts of duty and

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[14] See Genesis 1:27. *La Sacra Bibbia*. Roma: Edizioni Paoline, 1964.
[15] See Genesis 9:6. Ivi.
[16] Pilkington, James. *The Doctrine of Equality of Rank and Condition Examined and Supported on the Authority of the New Testament and on the Principles of Reason and Benevolence*. London: Printed for J. Johnson, 1795.
[17] Galatians 3:28-29. *La Sacra Bibbia. Op. Cit.*
[18] Magna Carta, in William Stubbs. *Select Charters*. Oxford: Clarendon Press, 1921, pp. 294-298.
[19] Griffin, James. *On Human Rights*. Oxford: Oxford University Press, 2008, p. 12.
[20] Thomas Aquinas. *Summa Theologiae*. Taurini: Marietti, 1952. See also Bloch, Ernst. *Natural Law and Human Dignity*. Cambridge, Mass: MIT Press, 1986, pp. 25-35.

compassion as well as principles of moral philosophy in championing political and social reform, ethical behavior, and human dignity.[21] "*I would ask you to love one another,*" said the Czech priest and philosopher Jan Hus (1369-1415 CE) just before he was burned at the stake, "*not to let the good be suppressed by force and to give every person his rights.*"[22] Erasmus of Rotterdam (1466-1535 CE), at the same time, stressed that "*The doctrine of Christ casts aside no age, no sex, no fortune, or position in life. It keeps no one at a distance.*"[23] These different positions contributed to expand the interest for justice, equality, and individual freedom, and thus to a corresponding shift from natural law as duties to natural law as rights.[24]

The seventeenth century marks the watershed for modern natural rights theory. Thomas Hobbes (1588-1679 CE) turned the pre-modern emphasis upon duty upside down by refuting the political or social nature of human beings and by viewing law as an *actus voluntatis* rather than as an *actus intellectus* in his *Leviathan* (1651).[25] A social contract, then, was necessary to maintain control and power over individuals at odds with each other in the state of nature.[26]

Within the social contract theory, John Locke (1632-1704 CE), in his *Second Treatise of Government* published in 1689 in support of the so-called "Glorious Revolution" in England, claimed that everyone in the "state of nature" possessed certain "natural rights" -to life, liberty, and property- prior to the existence of any organized societies, and thus stressed that government was a trust established to protect these rights through the rule of law.[27] His theory was based on Christian natural law philosophy and provided the outlines of the modern conception of human rights. In 1689 the English Parliament passed the Bill of Rights, a crucial landmark in the history of civil and political rights. It specific provisions speak forcefully about limited monarchy, security of law and property, representative government and free elections, freedom of speech, religious toleration, trial by jury, and prohibitions against cruel and unusual punishment.

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[21] Lauren, Paul G. *Op. Cit.*, p. 14.
[22] Jan Hus, 1415, as cited in H. Gordon Skilling. *Charter 77 and Human Rights in Czechoslovakia*. London: Allen & Unwin, 1981.
[23] Erasmus of Rotterdam, as cited in Mark Kishlansky et al., *Civilization in the West*. New York: HerperCollins, 1995, p. 392.
[24] Lauren, Paul G. *Op. Cit.*, p. 14.
[25] Hobbes, Thomas. *Leviathan*. Edited by J. C. A. Gaskin Oxford: Oxford University Press, 1998, p. 40.
[26] Walters, Gregory J. *Op. Cit.*, p. 6.
[27] Locke, John. *The Second Treatise of Government*. Edited by Thomas P. Peardon New York: Liberal Arts Press, 1952.

The Protestant Hugo Grotius (1583-1645 CE) was another important figure in the seventeenth century. Grotius' chief contribution regarding the philosophy of rights was his reinvention of a natural law doctrine independent of divine origins. In his *De jure belli et pacis* (1625), he developed the view that all nations could be judged in accordance with a natural law that did not depend upon the existence of God, but rather upon the requirements of rationality. As Grotius reiterated in his major work: "*What we have been saying* [about the foundation of natural law] *would have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is no God, or that the affairs of men are of no concern to Him.*"[28] Therefore, even if he never made himself the "wicked concession", he thought that we can establish natural laws through the kind of understanding open to all of us, whatever we believe about religion. That means that we must act in accord with our rational nature, and that "*we must do the various things necessary to maintain a society both consonant with reason and composed of inconsistently motivated members like us, by nature desirous of society yet by nature so self-interested as to undermine society.*"[29]

Like Hugo Grotius, the German philosopher Samuel Pufendorf (1632-1694 CE) thought that although divine revelation may help us to know natural law, "*it can still be investigated and definitely proved, even without such aid, by the power of reason.*" What particularly needs empirical investigation, he thought, is which precepts are needed to produce a rationally stable society, given the self-interested nature of the social creature that human beings are. [30]

The concept of natural law, therefore, could have two different connotations. On the one hand, the natural law claims an unconditional authority of some basic normative principles that are supposed to be prior to human legislation and in this sense "natural" as opposed to merely artificial or positive law. On the other hand, the concept of natural law also stresses independence from an exclusively theocratic foundation of society and law. In this context, normative principles are thought to be "natural" in the sense of being understandable without explicit reference to a divine revelation and thus applicable to people outside of the dominant (i.e., Jewish,

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[28] Hugo, Grotius. *On the Law of War and Peace*. Trans. By Francis W. Kelsey. Oxford: Oxford University Press, 1925, p. 13.
[29] Griffin, James. *Op. Cit.*, p. 10.
[30] Pufendorf, Samuel, Freiherr von. *De jure naturae et gentium.* Translated into English by C. H. and W. A. Oldfather. *Of the Law of Nature and Nations*. Oxford: Oxford University Press, 1925, p. 13.

Christian, Muslim, etc.) religious tradition as well. This natural law tradition, in this double understanding, has often been listed as one of the most important sources of human rights in Western tradition.[31]

In the eighteenth century, a confluence of philosophies on natural rights nourished the idea, already exposed by John Locke, of a right to revolution in the face of tyranny, which enters into action when the tyrant or despotic government has broken the social contract between ruler and ruled by trampling on rights it was established to preserve. The philosophies espoused principles that they held to be universal, and, like the Stoics before them, they believed that these principles ruled over the cosmos and human society alike.

The ideals of the Enlightenment had a practical impact in the American and French revolutions, and in the constitutional norms and structures that crystallized from them. The Virginia Declaration of Rights (1776) drafted by George Mason, which predated the Declaration of Independence, proclaimed freedoms of the press and religious expression, and provided that no one must be denied their liberty except under the law. It argued that not just Virginians or American but "*all men are by nature equally free and independent, and have certain inherent rights.*"[32]

The American Declaration of Independence of 4 July 1776 justified the revolt against British rule in terms of "unalienable rights" to life, liberty, and the pursuit of happiness. Thomas Jefferson, the author of the American Declaration, stated the case for universal rights with these eloquent words:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just power from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government.[33]

In 1791 the Americans added the Bill of Rights as a set of amendments to the United States Constitution of 1787 and included the rights to freedom of religion, the

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[31] Bielefeldt, Heiner. *Op. Cit.*, p. 93.
[32] "The Virginia Bill of Rights, 1776," in Poore, Benjamin P. *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States, Vol. 2*. Washington: Govt. Print. Off, 1877, pp. 1908-1909.
[33] Declaration of Independence, 4 July 1776, in Garraty, John A, and Robert A. McCaughey. *The American Nation, Vol 2*. New York: HarperCollins Publishers, 1991.

press, expression, and assembly, protection against unreasonable search and seizure, the right not to incriminate oneself and the right to due process of law.[34]

At the same time in England, the writer Thomas Paine published his provocative book *Rights of Man*. Drawing on the theory of natural law and natural rights, he introduced the specific expression "human rights."[35] He gave credit to religious traditions for observing the unity and equality of all humankind, and then argued the universal natural rights for individuals provided the original source of all subsequent rights for members of society. Paine claimed that "*man did not enter into society to become worse than he was before, not to have fewer rights than he had before but to have those rights better secured.*"[36] Moreover, he stressed that duties are complementary to rights: "*A Declaration of Rights is, by reciprocity, a Declaration of Duties also. Whatever is my right as a man is also the right of another; and it becomes my duty to guarantee as well as to possess.*"[37]

Few years after the American Declaration of Independence, in 1789, the Universal Declaration of the Rights of Man and the Citizen was proclaimed as a set of principles for a new constitution in France. This later Declaration affirmed the rights of liberty, property, security, and resistance to oppression; it also proclaimed equality before the law, freedom from arbitrary arrest, freedom of expression and religion. The rights proclaimed by both these revolutions were universal in theory but restricted in practice to propertied, white males.

At the end of the nineteenth and beginning of the twentieth century a number of treaties, which were designed to safeguard individual rights, were concluded. The most important ones were the Geneva Conventions of 1864, 1907, and 1929 which protected the rights of the wounded, civilian populations, and prisoners of war during armed conflicts.[38]

All these historical examples show how the arbitrary rule of governments has been curbed on a variety of grounds other than human rights, including divine commandment, legal rights, and extralegal checks such as a balance of power or the threat of popular revolt. The human rights scholar Jack Donnelly reminds us that it is

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[34] See Brant, Irving. *The Bill of Rights*. New York: New American Library, 1967.
[35] Paine, Thomas, *The Rights of Man*. New York: Heritage Press, 1961, p. 18.
[36] Ivi, p. 39.
[37] Ivi, p. 114.
[38] Renteln, Alison D. *International Human Rights: Universalism Versus Relativism*. Newbury Park: Sage Publications, 1990, p. 18.

the idea of equal and inalienable rights that an individual enjoys simply because he/she is a human being that was missing in all traditional societies, not only Asian, African, Islamic, but in traditional Western societies as well.[39]

With the rise of the modern nation-state in the nineteenth century, the Constitution of the State took the place of divine or natural law, thus marking a shift from the earlier grounding of the Magna Charta in divine authority. A law became illegitimate if it violated the Constitution. It was more an issue of unconstitutional behavior rather than of being unjust because it was in violation of natural or divine law. Along with the nation-state, the doctrine of "national sovereignty" arose, with each prince claiming absolute sovereignty in his own domain.

The League of Nations and the International Labour Organization (ILO) were formed in 1919 as part of the World War I peace settlement. From these recent agreements we can start witnessing universally held ethical standards that apply to relations between States in the international system, notwithstanding the presumable need for States to protect their self-interests. The League of Nations was the progenitor of the modern United Nations, but its Covenant did not include any general reference to human rights, despite the concurrent manifestations of concern with this subject. US President Woodrow Wilson, for example, attempted to have a provision for religious liberty incorporated in the third draft of the Covenant:

> Recognizing religious persecution and intolerance as fertile sources of war, the powers signatory hereto agree, and the League of Nations shall exact from all new states and states seeking admission to it the promise, that they will make no law prohibiting or interfering with the free exercise of religion, and that they will in no way discriminate, either in law or in fact, against those who practice any particular creed, religion or belief whose practices are not inconsistent with public order or public morals.[40]

Notwithstanding these efforts, in its final form the Covenant failed to make reference either to freedom of religion or to the rights of religious minorities.[41] The League was largely ineffectual, and even the most heinous crimes against humanity,

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[39] Donnelly, Jack. "The Relative Universality of Human Rights." *Peace Research Abstracts Journal*. 44.5 (2007), p. 284.

[40] Miller, David H. *The Drafting of the Covenant. Vol. II*. New York: G.P. Putnam's Sons, 1928, p. 105.

[41] For the text of the Covenant of the League, see Evans, Malcolm D. *Blackstone's International Law Documents*. London: Blackstone Press, 1991, p. 1.

such as those perpetrated by Hitler, Mussolini, and Stalin, failed to elicit serious responses from it.[42]

1.2) Human Rights after World War II

Although we can find many pre-modern antecedents, both philosophical and political, to the contemporary international doctrine of human rights, it should be considered principally a legacy of World War II.[43] The existence itself of the idea of human rights is then a modern phenomenon. According to scholar Sajjad Idris, the codification of these rights arose in the aftermath of the tragic events of World War II, when, for the first time, "*humanity saw destruction that surpassed even the most gruesome or barbaric descriptions of carnage in the past.*"[44]

One early articulation of human rights ideals was that presented by President Franklin D. Roosevelt during his annual message to the US Congress on January 26, 1941, in which he advocated the "four freedoms:" freedom of speech, freedom of worship, freedom from want, freedom from fear.[45] Franklin D. Roosevelt and Winston Churchill included these notions in the Atlantic Charter, which was drawn up on August 14th, 1941, adding the need for self-determination, economic progress, and social security to the previously outlined rights. On January 1st, 1942, twenty-six nations[46] signed the Declaration of the United Nations, a war alliance in which they pledged to the principles set forth in the Atlantic Charter. The United States, Great Britain, and the Soviet Union formally endorsed the Declaration of the United Nations at the Moscow Conference of October 1943. It was during the Moscow Conference that the need for such a world body was formally recognized.[47] A conference of the four major powers (China, Great Britain, the Soviet Union, and the United States) at Dumbarton Oaks in the fall of 1944 was the birthplace of a

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[42] Renteln, Alison D. *Op. Cit.*, p. 19.

[43] Beitz, Charles R. "Human Rights As a Common Concern." *American Political Science Review*. 95.2 (2001), p. 271.

[44] Idris, Sajjad. "Reflections on Mawdudi and Human Rights."*Muslim World*. 93 (2003), p. 549.

[45] Podell, Janet, and Steven Anzovin. *Speeches of the American Presidents*. Bronx. New York: H.W. Wilson, 2001, pp. 578-582. See also "FDR and the Four Freedoms Speech." At http://www.fdrlibrary.marist.edu/fourfreedoms. Accessed on May 24th, 2012.

[46] These countries included The United States of America, The United Kingdom of Great Britain and Northern Ireland, The Union of Soviet Socialist Republics, China, Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, El Salvador, Greece, Guatemala, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, Union of South Africa, Yugoslavia.

[47] Renteln, Alison D. *Op. Cit.*, p. 20.

preliminary draft of the constitution of the new international organization.[48] Scholar Alison D. Renteln argues that it was at this conference that some first value conflict emerged, i.e. China favored the inclusion of provisions for nondiscrimination and equal rights, whereas the United States and Great Britain, due to their domestic policies at the time, were opposed to those rights, specifically racial segregation and exclusionary immigration.[49] The proposals which were developed at Dumbarton Oaks constituted the basis of the work undertaken at the Conference on International Organization in April 1945 in San Francisco, attended by many nations and nongovernmental organizations. It was during this conference that a draft of the Charter of the United Nations was finally adopted.

The United Nations Charter was the first international agreement in which the countries of the world made a commitment to promote human rights at the international level. In contrast to the Covenant of the League of Nations, the Charter made explicit reference to human rights in its preamble – "faith in fundamental human rights"- and in several different articles.[50] However, in order to settle the different competing political influences, the language pertaining to human rights that was eventually incorporated in the Charter remained vague. The Charter, in fact, only refers to human rights and fundamental freedoms in the most general terms, without giving content to these ideas. The explanation given by the drafter was that "*an exact definition of human rights was omitted to allow the concept to evolve with the development of humankind.*"[51]

In the UN Charter, under Article 13(1), the main responsibility for advancing the cause of human rights and for codifying international law was assigned to the General Assembly. The Secretariat, under Articles 97, 98, and 99, was also designed as a key human rights actor. Over the time, many UN organization have been created which address human rights issues -e.g. the United Nations Educational, Scientific and Cultural Organization (UNESCO).[52] Under the aegis of the General Assembly, the Economic and Social Council (ECOSOC) was authorized to pursue human rights

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[48] Hilderbrand, Robert C. *Dumbarton Oaks: The Origins of the United Nations and the Search for Postwar Security*. Chapel Hill: University of North Carolina Press, 1990.
[49] Ivi, pp. 20-21.
[50] See, for example, Articles 1, which commits the organization to encourage respect for "human rights and for fundamental freedoms for all," but also Articles 13, 55, 62(2), and 68, at http://www.un.org/en/documents/charter
[51] Renteln, Alison D. *Op. Cit.*, p. p. 21.
[52] Ivi, p. 23.

activities. Ordinarily, human rights issues were instead referred to the Social, Humanitarian Cultural Affairs Commitee, commonly referred as Third committee.

The drafters of the UN Charter had also to balance the competing demands for international standards with the national fear of surrendering sovereignty.[53] According to human rights scholar Anne Bayefsky, this tension between the sovereignty of States and the inviolability of human dignity embodied in the Charter was left essentially unresolved.[54] National sovereignty was emphasized at the expenses of human rights when the delegates at the San Francisco Conference unanimously approved the Commission on Human Rights.[55] Between June 1945 and January 1947, when the full Commission first met, legal experts and UN representatives debated issues regarding its membership and powers.[56] The first and most important task of the Commission on Human Rights was the draft of an "International Bill of Rights". Other principal concerns of the Commission were the drafting of international conventions on specific topics, such as the protection of minorities, and the prevention of discrimination on the ground of race, sex, language, or religion.

When the Commission began its work, it had eighteen drafts to consider: all of them came from the democratic West and all but two were in English[57]. It was agreed at the first session that the Commission itself could not draft the International Bill of Rights. The project was then assigned to a drafting committee comprised of Eleanor Roosevelt, first chair of the Commission; Vice-Chair P.C. Chang, representing China; and the rapporteur Charles Malik, representing Lebanon. As director of the Secretariat's Division of Human Rights, John Humphrey from Canada was asked to draft the Secretariat Outline, a preliminary draft of the Universal Declaration on Human Rights (UDHR).[58] He was determined to include economic rights in the declaration: "*Human rights without economic and social rights have little*

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[53] Ivi, pp. 22-23.
[54] Bayefsky, Anne F. "Cultural Sovereignty, Relativism, and International Human Rights: New Excuses for Old Strategies." *Ratio Juris*. 9.1 (1996), p. 42.
[55] Tolley, Howard. *The U.n. Commission on Human Rights*. Boulder: Westview Press, 1987, pp. 6-8. The United Nations Commission on Human Rights (UNCHR) has been replaced by the United Nations Human Rights Council on 15 March, 2006. The Commission was a subsidiary body of the UN Economic and Social Council (ECOSOC), and was also assisted in its work by the Office of the United Nations High Commissioner for Human Rights (UNHCHR). It was the UN's principal mechanism and international forum concerned with the promotion and protection of human rights.
[56] Ibidem.
[57] Humphrey, John P. *Human Rights & the United Nations: A Great Adventure*. Dobbs Ferry, N.Y: Transnational Publishers, 1984, pp. 31-32.
[58] For his personal account, see Humphrey, John P. *Op. Cit.*, pp. 29-32.

meaning for most people, particularly on empty bellies."[59] Because the Soviet Union raised objections to the composition of the drafting committee, Eleanor Roosevelt was persuaded to expand the committee to eight members, including Australia, Chile, France, Soviet Union, and the United Kingdom.[60] In early June 1947, the expanded drafting committee met to review the Secretariat's detailed outline for a Declaration including forty-eight articles which had been prepared by Humphrey. Scholar Howard Tolley states that the "*deliberations by the Commission and its drafting committee revealed profound ideological differences over what constituted universal rights.*"[61] The committee reconvened in May 1948 to assess replies from governments and then voted to adopt the Declaration by June 18th, 1948. The recorded vote was twelve in favor, none opposed, and four abstentions by Eastern European members.[62] Great debates took place within the Third Committee in the fall of 1948. This committee, which included representatives of the fifty-eight nations, which were at that time members of the UN, discussed at great length the draft declaration proposed by the Commission of Human Rights, passing that draft on with some changes to the General Assembly on December 8th, 1948. In the context of the debate on the UDHR, Muslim delegates expressed reservations on some of its principles and believed that Islam had its own human rights scheme to offer that would sufficiently deal with modern challenges. In particular, ideas on freedom of religion and conversion as well as human equality regardless of gender or creed were of concern to some delegates.[63] An interesting confrontation, for example, took place between two Muslim delegates, both of which attempted to justify their position on the basis of Islamic Law.[64] The Saudi Arabian representative, Mr. Al-Baroody, objected to the terminology as proposed in Article 18 of the Universal Declaration. In opposition to the Saudi Arabian position, the Pakistani representative, Mohammed Zafar-ullah Khan, cited the Qur'anic verse which notes "*let he who chooses to believe, believe and he who chooses to disbelieve, disbelieve*" (Q.

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[59] Ivi, p. 2.
[60] Renteln, Alison D. *Op. Cit.*, p. 28.
[61] Tolley, Howard. *Op. Cit.*, p. 21.
[62] Ivi, p. 20.
[63] Idris, Sajjad. *Op. Cit.*, p. 549. For example, whether the first clause of Article 18 of the Universal Declaration- "Everyone has the right to freedom of thought, conscience and religion" was acceptable to all religious faiths, the second clause-"this right includes freedom to change his religion or belief" - created problems for some Muslim delegates.
[64] See Kelsay, J.. "Saudi-Arabia, Pakistan and the Universal Declaration on Human Rights," in Little, David, John Kelsay, and Abdulaziz A. Sachedina. *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*. Columbia, S.C: University of South Carolina Press, 1988, pp. 33-52.

18:29)[65] and went on to argue that "[*t*]*he Moslem religion was a missionary religion: it strove to persuade men to change their faith and alter their ways of living, so as to follow the faith and way of living it preached, but it recognized the same right of conversion for other religions as for itself.*"[66]

Human Rights scholar Ann Elisabeth Mayer holds that it was not reach a consensus among Muslim States in the area of civil and political rights because the traditional interpretations of the Islamic jurists were difficult to reconcile with ideas such as religious freedom and gender equality.[67]

The final approval on the Universal Declaration came in the Third General Assembly on December 10th, 1948. Among the member States, forty-eight voted in favor of its adoption, none against, eight abstained (Byelorussia, Czechoslovakia, Poland, Saudi Arabia, Ukraine, the Union of South Africa, the Soviet Union, and Yugoslavia), and two were absent (Honduras and Yemen).[68] When the Universal Declaration was adopted, Eleanor Roosevelt, as Chair of the Commission on Human Rights, stated that the Declaration "*is not and does not purport to be a statement of law or of legal obligation,*" but rather that it is "*to serve as a common standard of achievement for all peoples of all nations.*"[69]

In their final comments, the delegates to the Third General Assembly made it abundantly clear that the Declaration was born out of the experience of the war that had just ended. Historian Johannes Morsink stresses the "epistemic influence" of the war on the drafting of the Universal Declaration. All the delegations, in fact, generally agreed that the gross human rights violations and abuses that occurred during World War II constituted the major impulse behind the drafting of the Declaration.[70] The experience of the Holocaust and the genocidal horrors of the Third Reich were, then, adopted as epistemic foundation for the principles enshrined in the Universal Declaration -the firm conviction that all humans, by the

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[65] *The Qur'an.* New York: Oxford University Press, 2005, sura *Al-Kahf*, Trans. Abdel, Haleem M. A.
[66] UN Doc. A/PV 182, 890.
[67] Mayer, Ann Elizabeth. "Islamic Rights or Human Rights: An Iranian Dilemma", *Iranian Studies*, Summer - Autumn, 1996, vol. 29, no. 3/4, p. 270
[68] Morsink, Johannes. "World War Two and the Universal Declaration." *Human Rights Quarterly*. 15.2 (1993), p. 310.
[69] Roosevelt, Eleanor. "Adoption of the Declaration of Human Rights." Available at http://www.udhr.org/history/ergeas48.htm. Accessed on April 13th, 2012.
[70] Morsink, Johannes. *Op. Cit.*, p. 357.

simple virtue of being human, are equally entitled to the most basic fundamental rights- with no need for further philosophical arguments.[71]

The Universal Declaration of Human Rights was still drafted in very general terms to secure the support of all the States despite their different cultures and social compositions. This is not to say that delegates did not deal with major issues and questions related to the world's cultural and religious diversities. Human rights scholar Paul Gordon Lauren has observed that some of the drafters were quite familiar with

> the pluralistic philosophical and cultural traditions of Europe, the Middle East, and Asia [...] Indeed, their extraordinary and pioneering efforts to consider a wide range of opinions and values certainly belies later charges that they somehow conspired to 'circumvent fundamental difference' or engaged in 'cultural imperialism'. To help them resolve some of the issues as they prepared a draft international bill of rights, for example, members of the Commission of Human Rights deliberately decided to draw on a number of different sources above and beyond whatever instructions they received from their governments.[72]

Moreover, recognizing the cultural diversity of the world, the authors grappled with the impossibility of ever arriving at a consensus for a universal declaration, if they inserted philosophical or religious precepts into its normative foundation. The committee, then, decided to drop any reference to God and reach an agreement that all member States could sign. The result was Article 1, which does not specify by whom all human beings "are endowed with reason and conscience."[73] The reference in the preamble to "inherent dignity" also represented a compromise language with which every State may feel comfortable; while religiously inclined States may perceive the inherent dignity of the human being as emanating from God, secular-inclined States were equally free to view the same as emanating from whatever source they chose to assign it.[74]

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[71] Rosenfeld, Michael. "Can Human Rights Bridge the Gap between Universalism and Cultural Relativism? A Pluralist Assessment Based on the Rights of Minorities." *Peace Research Abstracts*. 39.2 (2002), p. 249.
[72] Lauren, Paul G. *Op. Cit.*, p. 222.
[73] Afshari, Reza. *Human Rights in Iran: The Abuse of Cultural Relativism*. Philadelphia, PA: University of Pennsylvania Press, 2001, pp. 7-8.
[74] Baderin, Mashood A. "Dialogue Among Civilisations As a Paradigm for Achieving Universalism in International Human Rights a Case Study with Islamic Law." *Asia Pacific Journal on Human Rights and the Law*. 2.2 (2001), p. 24.

Johannes Morsink compares the drafters of the Universal Declaration to the "rebels" of Albert Camus novel, who found justification for their action -the act of first writing and then universally proclaiming the Declaration- within the very act of rebellion itself, a rebellion against the atrocities committed by the Nazi regime during World War II: laws authorizing the dispossession and extermination of Jews and other minorities, arbitrary police search and seizure, the condoning of imprisonment, torture, and execution without public trial. In this action of rebellion and moral repulsion of gross violations of human dignity, delegates, according to Morsink, did not see any need for philosophical justification or proof; *the Nazi horrors were enough to convince them that they were right in believing that people have rights.*"[75] It was like a shared abhorrence of what Nazi did to their victims and this rebellion was universal. Camus' words themselves seem to suggest that there is a universal element in rebellion, for "*when he rebels a man identifies himself with other men and so surpasses himself and from this point of view human solidarity is metaphysical.*"[76] The delegates to the Third General Assembly and the governments they represented drew a line beyond which they would not tolerate aggression, and they drew it as a result of the experience of the war. As we can read from the first recital of the Universal Declaration, they drew a line around people's "inherent dignity" and around their "inalienable rights." The rebellion of the Declaration was against "*the contempt for human rights ... [that] resulted in barbarous acts which have outraged the conscience of mankind.*"[77] According to this interpretation, the drafters of the Declaration did not deduce the articles of the Declaration from any abstract moral principles, but they went for the justification of each article back to the experience of the war, again, stressing its "epistemic influence".

Each human right has then its own justification at the very moment when that right is violated in some gross way. It is basically a negative conception of justice, because we need to be presented with clear cases to what we want to avoid. I believe this practical aspect is of utmost importance in order to find the best possible balance between the theory of human rights and the practice of States and societies. It is this visceral link with human experience that explains, in Morsink's theory, why many delegates from different social, political, cultural, and religious

[75] Morsink, Johannes. *Op. Cit.*, p. 398.
[76] Camus, Albert. *L'homme révolté*. Paris: Gallimard, 1951. English translation *The Rebel*. New York: Alfred A. Knopf, 1956, p. 13.
[77] See Preamble of the Universal Declaration at http://www.un.org/en/documents/udhr/

systems could nevertheless agree on a list of rights: "*they had witnessed the same horrors and therefore were able and willing to proclaim the same rights.*"[78] This approach stresses the importance of moral rebellion to concrete violation of human rights as a starting point for the defense of universal human rights. Heiner Bielefeldt seems to agree when he states that it "*seems more appropriate to view human rights as operating in response to concrete experiences of injustice in the modern world.*"[79]

The Commission of Human Rights worked on the rest of the International Bill of Rights between May 1949 and April 1954. The Covenants drafted by the Commission represented an attempt to create human rights standards which would be legally binding on signatories, since the UDHR was originally intended only as a statement of principles. The Covenants took a long time to be drafted and approved. In 1966 the Covenants were finally presented in the General Assembly. The International Covenant on Civil and Political Rights (ICCPR) received 106 votes in favor with none against; the International Covenant on Economic, Social and Cultural Rights (ICESCR) received 105 votes with none against. The fact that nations voted for the Covenants did not mean that they would ratify them promptly. It took, in fact, ten years before both Covenants, finally, received the required thirty-five ratifications needed to enter into force. The delay has been attributed to the ideological diversity within UN. The final draft of the ICCPR contained fifty-one articles, twenty-two of which closely resembled provisions of the Declaration.[80] Compared to the UDHR, the ICCPR offers the advantage of the possibility of enforcement, although only States that are parties to the Covenant are subjected to the enforcement mechanisms. Useful on this point is the Optional Protocol to the ICCPR. Under Article 1, in fact, ratifying States authorize the Human Rights Committee to "*receive and consider communications from individuals subject to its jurisdiction who claim to be the victims of a violation by the State Party of any of the rights set forth in the Covenant.*"[81] States are generally reluctant to report violations in other States because this may sour diplomatic relations, so it could be advantageous to permit individuals to present their own claims in international

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[78] Morsink, Johannes. *Op. Cit.*, p. 399.
[79] Bielefeldt, Heiner. "Muslim Voices in the Human Rights Debate." *Human Rights Quarterly*. 17.4 (1995), p. 590.
[80] Renteln, Alison D. *Op. Cit.*, p. 34.
[81] See "Optional Protocol to the International Covenant on Civil and Political Rights." Available at http://www2.ohchr.org/english/law/ccpr-one.htm

human rights forum[82]. In this way, the individual has become a subject and not merely an object of international law.

While it is true that "*most African and Asian countries did not participate in the formulation of the Universal Declaration of Human Rights because, as victims of colonization, they were not members of the United Nations,*"[83] the same cannot be said about many later documents, which not merely affirm but elaborate and add to the rights of the Universal Declaration. For example, we saw that both ICCPR and ICESCR were adopted in 1966 and that they entered into force only a decade later, in 1976. As of 2012 the ICCPR can count on 167 States parties, and the ICESCR on 160.[84] The number of States parties to an international treaty provides some evidence of universality, or at least of the acceptance of the norms in that treaty by the international community. Nevertheless, a State's ratification of an international human rights instrument is not sufficient evidence that the State, in fact, observes the provisions of that instrument in practice. Furthermore, resorting to ratification as a basis for authority and universality of human rights is not free from problems. First, those who ratify are the elites whose views may not correspond to those of the rest of the citizenry in a given State. Second, ratification may simply serve political and not humanitarian interests. It is then not true, according to Alison Renteln, that ratification proves that there is a universal concept of human rights.[85]

Human rights scholars usually speak of three "generations" of human rights within the international context. First-generation human rights, as embodied in the ICCPR, stress civil and political rights over and against the encroachment of the State on individuals. Thus, human rights were initially conceived more in negative terms (as "freedom from") than in positive terms (as "rights to"). State parties that have ratified the ICCPR have the option, under Article 41, of recognizing the jurisdiction of the covenant's "Human Rights Committee" to hear complaints from other States that have also accepted this procedure. The committee can hold hearings and promote friendly settlement, but it cannot form an independent judgment on the merits of a given complaint. That power is reserved for cases arising under the Optional Protocol to the Civil and Political Covenant. States adhering to the Optional

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[82] Renteln, Alison D. *Op. Cit.*, p. 38.
[83] An-Naʾim Abdullahi Ahmed, "Human Rights in the Muslim World: Socio-political Conditions and Scriptural Imperatives." *Harvard Human Rights Journal.* 3 (1990), p. 15.
[84] These statistics are available at http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en
[85] Renteln, Alison D. *Op. Cit.*, p 46.

Protocol give authority to the committee to hear petitions from individual citizens alleging violations of their rights under the ICCPR.

Second-generation human rights, embodied in the ICESCR, emphasize economic, social, and cultural rights. Under this covenant, States are supposed to "take steps" "to the maximum of available resources," "with a view to achieving progressively the full realization" of the designated rights (Article 2.1).

Third-generation human rights, the most controversial among international human rights, involve "solidarity" among States. These rights are said to be collective rather than individual, and they include "people's rights" to development, to a healthy environment, to peace, to the sharing of a common heritage, and to humanitarian assistance. With the exception of the right to self-determination, which international law recognizes as a collective human right of peoples (see Article 1 of both ICCPR and the ICESCR), none of these rights exists in global treaty form, nor do established monitoring agencies to protect such rights exist.[86]

In the course of the years, after the UDHR was introduced, many human rights instruments and declarations at a regional level have been introduced, e.g. the European Convention on Human Rights (1950), the American Convention on Human Rights (1969), the African Charter on Human and Peoples' Rights (1981), the Cairo Declaration on Human Rights in Islam (1990). An advantage of regional human rights organizations over international ones is that the locally proposed standards can be more compatible with indigenous values and then implementation of those standards is less likely to be regarded as cultural imperialism. For those seeking universal human rights, however, this may present a problem. To the extent that regional standards conflict with international ones, claims to universality may be jeopardized. It is precisely this issue, which lies at the heart of the entire human rights movement, i.e. the tension between universalism and cultural relativism, that will be tackled in the next section of this chapter[87].

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[86] Walters, Gregory J. *Op. Cit.*, p. 11.
[87] Renteln, Alison D. *Op. Cit.*, pp. 36-37.

2) Human Rights: Definition and Scope

As we already stated before, the existence of human rights ideas is a modern phenomenon. While it is acknowledged that the elements constituting the idea of human rights can be found in various pre-modern developments, by modern "human rights" we can refer to the system of internationally negotiated and accepted human rights norms as developed after 1945, mainly under the auspices of the United Nations Charter. The core of this system is the International Bill of Human Rights, comprising the Universal Declaration of 1948 (UDHR) and the two International Covenants of 1966 (CCPR and CESCR).[88] As illustrated before, debates on these issues arose in the aftermath of the tragic events of the World War II.

This modern doctrine of human rights has come to play a distinctive role in international life. This is primarily the role of a moral and political touchstone. It is a standard of assessment, criticism, and legitimacy for domestic institutions, cultures, and traditions, as well as a standard of aspiration for their reform, and increasingly a standard of evaluation for the policies and practices of international economic and political institutions.[89]

2.1) Defining Human Rights

Even though human rights have come to play such a distinctive role, there is no universally accepted and authoritative definition of "human rights." According to the philosopher James Griffin, the responsibility of philosophers and political theorists to give the concept of human rights a satisfactorily determinate sense has not yet been fully discharged.[90]

We could define human rights as legally enforceable moral claims or entitlements that are held by an individual human being vis-à-vis the State government, for the protection of the inherent human dignity of the human being.

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[88] See Afshari, Reza. *Op. Cit.*, p. 7.
[89] See Beitz, Charles R. *Op. Cit.*, p. 269, and also Lindholm Tore. "Prospect for Research on the Cultural Legitimacy of Human Rights" in An-Naʾim Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. Philadelphia: University of Pennsylvania Press, 1992.
[90] Griffin, James. "Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights." *Proceedings of the Aristotelian Society (hardback)*. 101.1 (2001), pp. 27-28.

At the same time, we can say that human rights are legitimate, valid, justified claims, proclaimed by every human beings, upon his/her own society – claims to guarantees and safeguards, and to goods and benefits that are essential to personal well-being and dignity. The UN Training Manual on Human Rights Monitoring states that human rights "*are universal legal guarantees protecting individuals and groups against actions by governments that interfere with fundamental freedoms and human dignity.*"[91]

The purpose of human rights is then to protect people, individually or in group, against the State. But it is also to protect people against other groups or, if necessary, against their own social group.[92] They are rights that allow the human beings to protect their inherent human dignity from the abuse of power perpetrated by the State or by nongovernmental actors from whom the individual has a right to State protection[93]. These rights are held by human being as attributes of their human personality and not as rights granted by any human authority -be it State, monarch, family- or other institution, secular or religious. The modern idea of human rights, in fact, implies equality among all individuals regardless of their status or group membership and implies that there is no "natural" (ascribed) hierarchy.[94]

Economist and Nobel laureate Amartya Sen reminds us that these rights are not derived from citizenship of any country or membership of any nation, but taken as entitlements of every human being in virtue of a shared humanity.[95] At the same time, human rights scholar Rhoda Howard stresses that "*status becomes irrelevant in a human rights-protective regime,*"[96] because "*the concept of human rights renders status distinctions such as race, gender, and religion politically and legally irrelevant and demands equal treatment for all.*"[97] There has been a shift from role status –e.g. a "citizen, a "lord", a "baron"- to concern with human status itself.[98] The concept of universal human rights is, in this sense, a unifying idea. Societies dedicated to

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[91] Office of the High Commissioner for Human Rights. *Training Manual on Human Rights Monitoring*. United Nations: New York/Geneva, 2001. Accessible at http://www.ohchr.org/Documents/Publications/training7Introen.pdf

[92] Howard, Rhoda E. *Human Rights and the Search for Community*. Boulder: WestviewPress, 1995, p. 131.

[93] See Afshari, Reza. *Op. Cit.*, p. 6.

[94] Howard, Rhoda E. *Op. Cit.*, p. 82.

[95] Sen, Amartya. "Universal Truths: Human Rights and the Westernizing Illusion." *Harvard International Review*. 20.3 (1998), pp. 40-43.

[96] Howard, Rhoda E. *Op. Cit.*, p. 159.

[97] Ivi, p. 1.

[98] Griffin, James. *Op. Cit.*, p. 2.

human rights are then expected to be inclusive; indeed, they are expected to overcome status distinctions and allow everyone an equal and respected place as a human being.[99]

Human rights have some essential characteristics. They are universal, meaning that everyone holds them; they are inherent, meaning that humans are born with them; they are not given by anyone; and they are inalienable, meaning that they cannot be given away or taken away, although they can be limited in certain situations. These rights are also called "fundamental freedoms" or "human rights and fundamental freedoms."[100] A pronouncement of human rights, in fact, according to Amartya Sen, includes an assertion of the importance of the corresponding freedoms that are identified and privileged in the formulation of the rights in question -and is indeed motivated by that importance.[101] Since a declaration of human rights is an ethical affirmation of the need to pay appropriate attention to the significance of freedoms incorporated in the formulation of human rights, a starting point must be the importance of freedoms of human beings to be so recognized.[102]

Human rights define norms of respect for human beings and their dignity more radical and more exigent than ever in the past. They offer in principle greater freedom, greater security from violence, from arbitrary treatment, from discrimination and oppression than humans have enjoyed at least in most major civilizations in history. As philosopher Charles Taylor states, "*they involve taking the rather exceptional treatment accorded to privileged people in the past and extending it to everyone.*"[103] Again, status terms had to decline in importance. With the introduction of human rights, egalitarian ideas have indeed gained ground.

2.2) Defining Human Dignity

Although it has been recognized that defending and respecting human dignity is one of the most important aspects of human rights, there are different views of what

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[99] Howard, Rhoda E. *Op. Cit.*, pp. 159-160.
[100] Condé, H. Victor. *A Handbook on International Human Rights Terminology*. Lincoln: University of Nebraska Press, 2004, p. 111. See also Perry, Michael J. "Are Human Rights Universal? the Relativist Challenge and Related Matters." *Human Rights Quarterly*. 19.3 (1997), pp. 461-509.
[101] Sen, Amartya. "Elements of a Theory of Human Rights." *Philosophy and Public Affairs* 32.4 (2004), pp. 320-321.
[102] Ivi, p. 328.
[103] Taylor, Charles. "A World Consensus on Human Rights?"*Dissent*. 43.3 (1996), p. 15.

it means to live a life of dignity, and we cannot find a definition of dignity in any international human rights instruments; rather, this definition is left to intuitive understanding. Some aspects of dignity could be personal autonomy (agency), social concern and respect, and treatment by others in society as equals. Personal autonomy requires protection from those gross human rights violations that render one subject to the arbitrary coercive powers of the State. Rhoda Howard, moreover, stresses that personal autonomy means to have the freedom to act on one's decisions and goals and to have one's decisions and goals respected by the State and other citizens. To have autonomy, finally, means to have privacy –to think, to consider, to resist pressures from conformist social forces.[104] Autonomy, however, does not mean complete independence or self-reliance. The autonomous person does not live in a social vacuum, without connections with, obligations to, or claims on the broader community of fellow human beings. Rather, all human beings ought to be concerned with the dignity of all human beings within the society. The concept of human dignity should not promote anomic individualism or the breakdown of the community, but it should integrate the individual more fully into society, rather than removing him/her from it.[105]

2.3) Human Rights as Legally Enforceable Moral Claims

It is important, at this point, to clarify our understanding of human rights as "legally enforceable moral claims". This relationship between moral and legal consensus on human rights can be better understood in light of the positive integration between individual and society. Legal and moral claims are analytically distinct but difficult to keep separated.[106] According to philosopher David Duquette, legal recognition accorded to a particularly valid moral claim, as in the form of a constitutional provision for a certain civil right within a nation-state, does not in itself determine the authenticity of the human right in question. Nevertheless, lack of legal recognition –whether in civil or international law- will likely weaken the implementation and protection of that right. What Duquette wants to stress is that legal recognition and enforcement, while a practical goal for the implementation of

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[104] Howard, Rhoda E. *Op. Cit.*, pp. 16-17.
[105] Ibidem.
[106] Smith, Rhona K. M, and Christien, Anker. *Op. Cit.*, pp. 355-356.

human rights, are not part of the "condition of existence" for human rights.[107] Even though human rights can, and often do, inspire legislation, this is a further fact, rather than a constitutive characteristic of human rights.[108] There can be little doubt that the idea of moral rights can serve, and has often served in practice, as the basis of new legislation. It has frequently been utilized in this way, and this is indeed an important use of human rights. However, to acknowledge that such a connection exists is not the same as taking the relevance of human rights to lie exclusively in determining what should appropriately be made the subject of coercive legal rules. Since human rights are considered primarily as ethical demands, it would be a mistake, according to Amartya Sen, to generally presume that if a human right is important, then it must be ideal to legislate it into a precisely specified legal right. Because of the importance of communication, advocacy, exposure, and informed public discussion, human rights can exert influence without necessarily depending on coercive legislation.[109] Normative consensus, nevertheless, remains important because human rights "*are not held solipsistically by isolated Leibnizian monads but by socially situated human persons in virtue of their shared humanity and social consciousness of the moral significance of human dignity.*"[110]

Scholar Patrick T. Burke points out that the key element in the concept of right is the idea of punishment or enforcement. It is only in contexts where a possibility of punishment is at stake that we employ the notion of a right, either in the legal sense or in the moral sense. In the legal sense, we speak of a right where there is the possibility of enforcing a claim by means of a legal penalty, in the moral sense, we speak of a right where it is felt that there is an obligation to enforce the claim by means of a law, that is, again, a legal penalty. A right, then, is a claim that can be enforced with punishment. In the light of this, he goes on to wonder: "*what, then, is a human right? In itself, the notion of a human right is that of a right possessed by all human beings. This is clearly a moral right, not a legal one, i.e. it is something which ought to be a legal right. A human right is understood to be a claim which all human beings have, and a claim which the legal system should ensure is satisfied.*"[111] The

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[107] Duquette, David. "Universalism and Relativism in Human Rights" in Reidy, David A, and M N. S. Sellers. *Universal Human Rights: Moral Order in a Divided World*. Lanham, Md: Rowman & Littlefield Publishers, 2005, p. 59.
[108] Sen, Amartya. "Elements of a Theory..." Cit., p.319.
[109] Ivi, p.344.
[110] Duquette, David. *Op. Cit.*, p. 59.
[111] Burke, T. Patrick. *No Harm: Ethical Principles for a Free Market*. New York, N.Y: Paragon House, 1994, pp. 210-211.

point then is that we should refer to these moral claims as human rights because they ought to be legal rights in our view, but we should not get ahead of ourselves and start viewing them as such. Until they become legal rights, they represent moral claims or goals.

2.4) Open and Informed Scrutiny on Human Rights

Like other moral claims that demand acceptance, there is an implicit presumption in making pronouncements on human rights that the underlying ethical claims will survive open and informed scrutiny. Normative and legal consensus about human rights, as we will discuss more extensively in the next section, can be reached in the course of experience, discussion, and debate within the human community. Hence, moral justification involves practical reasoning about objective moral norms, understood in reference to our experiences and expectations regarding what is intrinsic to human dignity. This approach is "historicist" in that it evaluates experience and knowledge in the context of historical change and development; therefore, it takes into consideration the pragmatic and historical evolution of human rights. From this perspective human rights are grounded in our moral nature, are understood as an evolving phenomenon, and give expression to "*a social choice of a particular vision of human potentiality, which rests on a particular substantive account of the minimum requirements of a life of dignity.*"[112]

People in the modern society, instead of resorting to unquestioned authoritarian traditions to gain normative orientation, must then engage in active efforts in order to create norms. These norms are enacted by human legislation and remain open to challenges and critical debates. Therefore, the German philosopher Jürgen Habermas suggests that human rights belong to a "post-traditional" normative reasoning that, he says, has replaced traditional forms of ethics rooted in religion or metaphysics.[113] The term "post-traditional" seems to indicate that normative justification under the circumstances of modernity cannot be achieved

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[112] Donnelly, Jack. *Universal Human Rights in Theory and Practice*. Ithaca: Cornell University Press, 1989, p. 17.
[113] Habermas, Jürgen. *Faktizität Und Geltung: Beiträge Zur Diskurstheorie Des Rechts Und Des Demokratischen Rechtsstaats.* Frankfurt am Main: Suhrkamp, 1992. English translation: *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, Mass: MIT Press, 1996, p. 129.

simply by appealing to traditional authorities. However, stating that human rights principles require a rupture from all traditions would be a problematic idea, because it would imply that those people who continue to follow their religious or cultural traditions would be conceptually excluded from having full access to human rights. Against such an abstract dichotomy of tradition and "post-traditional" human rights, Heiner Bielefeldt suggests that human rights can meaningfully and productively be connected with different traditions. He brings as an example the Catholic Church that finally endorsed human rights and religious liberty after a long period of internal debate. The Second Vatican Council's declaration *Dignitatis humanae* of 1965 explicitly appreciates the modern understanding of human dignity based on the recognition of human freedom and responsibility.[114]

> Even though the Second Vatican Council's declaration clearly marks a turning point within the history of the Church, it is not meant to be a total rupture from the Catholic tradition. Rather, the Church considers human rights to be a modern way of protecting that unconditional dignity of every human being that always has been a part of the Christian message.[115]

As we saw in the first section of this chapter, connecting human rights with humanitarian elements of the Western tradition is not a privilege of Christians only. One can alternatively refer to ancient Greek philosophy, the Renaissance, the English principle of the "rule of law," the early modern Enlightenment, and other currents in Western history that, in one way or another, provide occasions for an "inculturation" of human rights. These and other different possibilities of inculturation of human rights exclude the interpretation of "post-traditional" reasoning of human rights in the sense of being simply disconnected from cultural or religious tradition. It would be problematic, however, if this inculturation were to be aligned with claims to an exclusive cultural heritage, claims that may ensue from a teleological view of history.[116] Therefore, the appreciation of human rights from the standpoint of different religious or cultural traditions should not lead to forms of an essentialist ownership. It would be immediately problematic to "base" human rights on the Bible, the *Qur'an*, the Avesta, the Hindu holy scriptures, or the teachings of Confucius, for as a result of such essentialist approaches, the idea of

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[114] Pope Paul VI. *Dignitatis Humanae*. December 7th, 1965. Available at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html
[115] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights…" Cit., p. 98.
[116] Ivi, pp. 98-99.

universal human rights would easily get lost in a variety of competing religious and cultural conceptions. It is here worth remembering the hermeneutic problem that it is only in retrospective that we can build a bridge between modern human rights and the sources of religious or cultural tradition. Such hermeneutical awareness is the best way essentialist appropriations of human rights can be fought.[117]

3) Universality in Human Rights Discourse

Universalism is the view that some moral claims are universally valid.[118] To defend the statement that human rights are "universal" is not to argue that they are necessarily accepted by or acceptable to everyone, given their divergent political and ethical beliefs.[119]

What is a universal moral claim? First of all, we must distinguish valid moral claims from accepted moral claims. A moral claim is accepted by a culture only in the case most members of the culture regard the judgment as valid, at least for their own culture. The fact that a claim is regarded as valid does not ensure that it is valid; so acceptance does not ensure validity. Likewise, the fact that a moral claim is valid does not ensure that people regard it as such; so validity does not ensure acceptance.[120] Acceptance and validity are different properties of moral claims. The claim that no moral principle is universally accepted does not imply that no moral principle is universally valid. For a moral claim or value to be considered universal, does it have the consent of everyone? Amartya Sen reminds us that if this were indeed a necessary provision, then the category of universal moral claims might well be completely empty, since it would be almost impossible to find a moral claim to which no one has ever objected. Universal consent, then, is not required for something to be a universal value. Rather, the claim of a universal value is that it applies to or may be claimed by everyone, and that people anywhere may have reason to see it as valuable.[121] The simple fact that some rights are not fully realized, and may not even be fully realizable under present circumstances, does not, in itself,

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[117] Ivi, p. 117.
[118] Tilley, John J. "Cultural Relativism, Universalism, and the Burden of Proof." *Millennium - Journal of International Studies.* 27.2 (1998), p. 290.
[119] Beitz, Charles R. *Op. Cit.*, p. 274.
[120] Tilley, John J. "Cultural Relativism." *Human Rights Quarterly.* 22.2 (2000), p. 522.
[121] Sen, Amartya. "Democracy As a Universal Value." *Journal of Democracy.* 10.3 (1999), p. 15.

entail anything like the conclusion that these are, therefore, not rights at all or false rights.[122]

For example, since 1948, certain provisions of the Universal Declaration have not been universally accepted. Most of these provisions regard private rights which relate to the private sphere or personal life of the human person. These rights have traditionally been covered by religious law, and they still are in many countries. This private sphere, which deals with issues such as religion, culture, and the status of women is a domain in which the most serious challenges to the universality of human rights arise.[123]

This example shows us how, in the field of international human rights discourse, we can first distinguish between the conceptual universality -implied by the very idea of human rights- from the substantive universality -the universality of a particular list of human rights.[124] Human rights, as we already stated before, are understood to be those rights that a person detains simply by being human. Human rights are thus "universal" rights in the sense that they are held "universally" by all human beings. Conceptual universality, however, establishes only that if there are any such rights, they are held universally by all human beings. It does not show that there are any such rights. And conceptual universality says nothing about the central question in most contemporary discussions of universality, that is, whether the rights recognized in the Universal Declaration of Human Rights and the International Human Rights Covenants are universal.[125] Today, all nations do generally acknowledge the human rights idea, thereby establishing its conceptual universality; however, substantive universality in human rights has not been achieved yet. We can find a strong support for conceptual universality of human rights in Raimon Panikkar, when he states that

> The declaration of Human Rights must need to be considered, at least in its intention, as a declaration with universal validity. To say that Human Rights are not universal would amount to saying that they are not human; they would cease to be Human

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[122] Sen, Amartya. "Elements of a Theory…" Cit., p.343.
[123] Cerna, Christina M. *Op. Cit.*, p. 746.
[124] Baderin similarly distinguishes between universalism in and universality of human rights. He sustains that these concepts are interrelated but refer to different aspects of human rights. "Universality of" human rights refer to the universal quality or global acceptance of the human rights idea, while "universalism in" human rights relates to the interpretation and application of the human rights idea. See Baderin, Mashood A. *Op. Cit*, p. 1.
[125] Donnelly, Jack. "The Relative Universality…" Cit., p. 282.

Rights. The whole novelty of the Declaration lies precisely here, in the assertion that every human being, by the mere fact of being human, is endowed with inalienable rights that everybody should respect. In that sense we may have something rather unique and revolutionary in the Declaration of Human Rights. Here indeed we have the positive side of the individual vis-à-vis the person. Every single human being in its individuality, by the very fact of being born, has a dignity and rights equal to any other. It is not one's place in society, or degree of civilization, or intellectual, moral or religious endowments that counts. Certainly, limits will immediately appear: you may be subnormal or abnormal, and not only physically, but also morally- or, others would also add, intellectually or religiously. But the naked fact of being born is the universal symbol on which Human Rights is based. From this point of view, the claim to universality of Human Rights has found a solid base.[126]

We should distinguish universalism in human rights discourse from moral absolutism. This requires that we distinguish moral rules from moral principles, although the boundary between rules and principles is sometimes difficult to detect. Moral principles are more general and more basic than moral rules because, on the one hand, they apply to a much wider class of actions and, on the other hand, they are used to justify moral rules, whereas the opposite is not true. Philosopher John Tilley provides us a clear example of this distinction: "Armed robbery is wrong" is a moral rule. "Causing needless unhappiness is wrong" is a moral principle. The second statement applies to a broad variety of actions and is commonly used to justify the first one. The first judgment, instead, concerns a much narrower class of actions, and it could not be used to justify the second one.[127] According to moral absolutism, many ordinary moral rules are universally valid and cannot be overturned. Universalism in human rights discourse does not imply absolutism. We could, in fact, maintain that moral rules, when valid, can also be defeasible and can change overtime.

Universalism is also different from ethnocentrism. The ethnocentric person uncritically accepts the prevailing views of his or her own culture, and sees different cultures as ignorant or backward. The universalist, on the other hand, thinks merely that some moral standards apply to all cultures. Although universalism in human rights discourse implies that some moral requirements are the same for all of us, it

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[126] Panikkar, Raimon. "Is the Notion of Human Rights a Western Concept?" *Diogenes*. 30.120 (1982), pp. 92-93.
[127] Tilley, John J. "Cultural Relativism." Cit., p. 526.

does not imply that we all have a moral requirement to be the same, nor that we have any moral requirement that will rule out cultural diversity. Respecting cultural diversity should actually be one of the universal principal requirements.[128]

Therefore, universalism is compatible with cultural pluralism.[129]

In the literature of human rights, some authors, like scholar Alison D. Renteln, have argued that the concept of human rights is a Western one:

> The membership of the drafting committee, the Commission on Human Rights, and the UN as a whole were predominantly Western. […] The movement to create a new international apparatus for the promotion of human rights was led largely by Americans […] the crucial meetings took place in the United States. American NGOs were extremely influential during the formative stages of the Commission and the UDHR.[130]

Against this allegation, human rights scholar Jack Donnelly observes that no culture or comprehensive doctrine is "by nature," or in any given or fixed way, either compatible or incompatible with human rights. The past practices of any give culture do not prevent it from endorsing human rights. Cultures are immensely malleable, as are the political expressions of comprehensive doctrines. It is more an empirical question whether any, some, or most members of a culture or exponents of a comprehensive doctrine support human rights as a political and legal conception of justice.[131]

It is true that the "*UDHR contains primarily civil and political rights (those favoured by Western nations) as well as a few economic, social, and cultural rights (those championed by the Third World and the Soviet bloc). Evidently, it was because the Declaration was said to be without legal effect that Western drafters were convinced to include economic, social, and cultural rights, as they would be non-justiciable in character.*"[132] The tension between the two sets of rights should not be overemphasized; nor should it be ignored. Even when the agenda moved from the Declaration stage to the Covenant stage the tension persisted, resulting in two separate Covenants. It may be a tenable claim that human rights are Western in

128 Tilley, John J. "Cultural Relativism, Universalism…" Cit., p. 293.
129 Tilley, John J. "Cultural Relativism." Cit., p. 540.
130 Renteln, Alison D. *Op. Cit.*, pp. 30-31.
131 Donnelly, Jack. "The Relative Universality…" Cit., p. 289.
132 Renteln, Alison D. *Op. Cit.*, p. 30.

origin and history. This is certainly one sense in which human rights could be considered Western. Does this fact constitute an obstacle to their being considered universal? There are numerous cases of concepts which arose in one part of the world and spread all over the world, so that they qualify being called universal. International numerals are an adaptation of Arabic numerals by the West, and the Arabs took them over India. To the extent that these numerals might be considered universal, their Indian origin is an interesting fact but has little to do with their present function. They may have originated in India but do not belong to it; nor should their Indian origin (or any other origin for that matter) pose an obstacle to their acceptance. Moreover, The Phoenicians developed the alphabet: its origin again should and did not pose any problem to its virtually world-wide acceptance. No major productive technique –from hunting to food-gathering through to the agricultural and industrial revolutions- remained confined to the region of its origins, once its benefits became manifest to all. This is as true of ideas as modes of production: they spread around as quickly as the use of money did, or the idea of writing.[133] However, it must be clearly recognized and remembered that while human rights are Western in origin, in their original conception they were not necessarily conceived as applying to all human beings but by and large only to male human beings of European extraction.

Rights talk and Western culture, therefore, appear to be quite separable. Human rights scholar Michael Ignatieff reminds us that other cultures want to have rights protection "*without choosing Western dress, food, or technology, to the degree that westerners are drawn into assisting other cultures, they are under an obligation, one intrinsic to rights language itself, to respect the autonomy of the culture in which they work.*"[134]

3.1) An Overlapping Consensus on Human Rights

What would it mean to come to a genuine, unforced international consensus on human rights? If we consider the focus of human rights on political and legal justice, the Universal Declaration could be viewed as a proposal for a cross-cultural

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[133] Sharma, Arvind. *Are Human Rights Western? A Contribution to the Dialogue of Civilizations*. New Delhi: Oxford University Press, 2006, p. 21.
[134] Ignatieff, Michael. *The Rights Revolution*. Toronto: House of Anansi Press, 2000, p. 45.

overlapping between moral and political consensus on human rights in a global perspective, resembling what the American philosopher John Rawls has claimed for the question of social justice at the domestic level. He developed this notion to explain how "*there can be a stable and just society whose free and equal citizens are deeply divided by conflicting and even incommensurable religious, philosophical, and moral doctrines.*"[135] What Rawls wants to clarify by introducing this concept is the complex relationship between the guiding idea of political justice in a modern liberal society, on the one hand, and the multiplicity of religious or philosophical convictions held by the members of that society, on the other hand. Although Rawls's considerations neither refer to international issues nor cover issues of multiculturalism, the idea has obvious extensions to a culturally and politically diverse international society.[136] John Rawls distinguishes "comprehensive religious, philosophical, or moral doctrines," such as Islam, Kantianism, Confucianism, and Marxism, from "political conceptions of justice," which address only the political structure of society defined, as far as possible, independent of any particular comprehensive doctrine. Adherents of different comprehensive doctrines may be able to reach an "overlapping consensus" on a political conception of justice. That is, different groups, countries, religious communities, and civilizations, even if they hold incompatible fundamental views on theology, metaphysics, human nature, and so on, would come to an agreement on certain norms that ought to govern human behavior. Each would have its own way of justifying this norms from its background conception.[137] This "overlapping consensus" on human rights must go beyond the smallest common denominator or minimalist morality between the existing traditional values of different cultures. Human rights are a normatively challenging conception in that they call for changes, self-criticism, and reforms to foster the mutual recognition of human beings on the basis of equality. In order not to overstate the normative claims of human rights, however, it is worth noting that their normative scope is limited. Human rights, while constituting political and legal standards, do not entail a comprehensive guidance as to how to lead one's life as an individual or within one's community. As Heiner Bielefeldt reminds us, "*human rights do not give any answers to the existential questions of the meaning of life and death. And they do not provide rituals and symbols through which people can express*

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[135] Rawls, John. *Political Liberalism*. New York: Columbia University Press, 1993, p. 133.
[136] Donnelly, Jack. "The Relative Universality…" Cit., p. 289.
[137] Taylor, Charles. *Op. Cit.*, p. 15.

their mutual respect and appreciation beyond the sphere of politics and law."[138] Human rights are neither a "comprehensive doctrine" nor a comprehensive ethical code of conduct. They cannot compete with cultural and religious traditions, although they do exercise a critical effect on the interpretation and development of these traditions.

Overlapping consensus, rather than render human rights groundless, gives them multiple grounds. Those who want to make ontological claims can do so with no need to convince or compel others to accept a particular, or even any, foundation for human rights. According to Jack Donnelly, treating human rights as a Rawlsian political conception of justice "*allows us to address a wide range of issues of political justice and right while circumventing not merely inconclusive but often pointlessly divisive disputes over moral foundations.*"[139]

The idea of an "overlapping consensus" on human rights does not even require us to work for a worldwide ecumenical reconciliation between all religions and ideologies, because it prescribes that people are free to define their individual and communitarian identities relatively to each other, provided they respect universal equality in human dignity and rights. Rawls points out that the guiding idea of political justice can be meaningfully appreciated from the perspectives of various philosophical or religious doctrines. The same holds true for human rights. It is especially the idea of human dignity that can connect human rights with different religious, philosophical, and cultural traditions because the insight into the unalienable dignity of every human being constitutes both the basic ethical principle of human rights and a central element of the teachings of various religions and philosophies.[140] This is the approach of Abdullahi Ahmed An-Na´im and Abdulaziz Sachedina, who attempt to reconcile international human rights norms with Islamic principles.[141] An-Na´im argues that all religious-cultural traditions, including Islam, share what he calls the principle of the Golden Rule: "*the principle that one should treat other people as he or she wishes to be treated by them.*"[142] All religions can then

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[138] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights…" Cit., p. 115.
[139] Donnelly, Jack. "The Relative Universality…" Cit., p. 293.
[140] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights…" Cit., p. 116.
[141] See Sachedina, Abdulaziz A. *Islam and the Challenge of Human Rights*. Oxford: Oxford University Press, 2009.
[142] See, for example, MT 25.40. *La Sacra Bibbia*. Roma: Edizioni Paoline, 1964.

employ this principle to promote universal human rights.[143] This possibility to align religions in a positive way with human rights constitutes a counter-argument to the so-called "secular approach", according to which the realization of human rights ideas depend on the existence of a secular State or society.[144] These suggestions are important, for the greater the potential compatibility of religion and human rights, the less the need to insist on a universal secularity as the basis of human rights. Not only religions support human rights norms, they may actually provide the bases for establishing and not just supporting a human rights regime.[145]

The idea of an overlapping consensus on human rights was already expressed in 1949 by French philosopher Jacques Maritain:

> I am quite certain that my way of justifying belief in the rights of man and the ideal of liberty, equality, fraternity is the only way with a firm foundation in truth. This does not prevent me from being in agreement on these practical convictions with people who are certain that their way of justifying them, entirely different from mine or opposed to mine [...] is equally the only way founded upon truth.[146]

Maritain believed that persons of widely differing ideological allegiances, philosophical and religious traditions, cultural backgrounds, and historical experiences could not agree on theoretical conceptions but could agree on a common formulation of practical conclusions, a catalogue of human rights standards. Hence, the objective is to agree on a body of beliefs to guide action in support of human rights in spite of disagreement on the justification of those beliefs.

Maritain refers to the paradox that is implicit in the effort to find agreement on conceptions of human rights: on the one hand, rational justifications for human rights are indispensable because each person wishes to consent to only what he or she recognizes as true and rationally valid; on the other hand, it is precisely in relation to rational justifications for human rights that we find major disagreement among philosophical traditions. He wrote that "*during one of the meetings of the French National Commission of UNESCO at which the Rights of Man were being discussed, someone was astonished that certain proponents of violently opposed*

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[143] An-Naʼim Abdullahi Ahmed, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*. Syracuse, N.Y: Syracuse University Press, 1990, pp. 162-163.
[144] Baderin, Mashood A. *Op. Cit.*,   p. 28.
[145] Sharma, Arvind. *Op. Cit.*, p. 77.
[146] Maritain, Jacques. Introduction to UNESCO, *Human Rights, Comments and Interpretations*. London: A. Wingate, 1949, p. 12.

ideologies had agreed on the draft of a list of rights. Yes, they replied, we agree on these rights, providing we are not asked why. With the "why" the dispute begins."[147]

In the effort to find a justification for universal human rights claims, we can distinguish between two different, but potentially complementary, approaches. The first approach is more focused on cultural issues, and it stresses a bottom-up validation for human rights; the second approach pays more attention to political and economic issues, and it then emphasizes a top-down validation for human rights.

3.2) The Bottom-Up Approach to Reach a Universal Consensus on Human Rights

Muslim legal scholar Abdullahi Ahmed An-Na´im promotes a bottom-up understanding of universal human rights by arguing that the lack or insufficiency of cultural legitimacy of human rights standards is one of the main underlying causes of violations of those standards. Internal and cross-cultural legitimacy for human rights standards needs then to be developed in order to address the underlying causes of the ongoing discrepancy between the theory and practice of human rights.[148] The credibility and practical efficacy of national and international human rights standards would be enhanced, according to this position, by increasing their legitimacy in the widest possible range of cultural traditions; therefore, universal cultural legitimacy is essential for international standards of human rights because people must perceive the concept of human rights and its content as their own. To be committed to carrying out human rights standards, people must hold these standards as emanating from their worldview and values, not imposed on them by outsiders.[149]

According to An-Na´im, culturally rooted norms stand the best chance of compliance. Therefore, current and foreseeable new human rights cannot be seen as truly universal unless they are conceived and articulated within the widest possible

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[147] Maritain, Jacques. *Man and the State*. Chicago: University of Chicago Press, 1951, p. 77. See also Leary Virginia A. "Postliberal Strands in Western Human Rights Theory" in An-Na´im Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspective...Cit.,* p. 105.

[148] An-Na´im Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives...Cit.,* pp. 19-20.

[149] Ivi, p. 431.

range of cultural traditions. We would then need to enhance the legitimacy of the human rights standards by rooting them in the various cultural traditions of the world. The implementation of the international human rights standards, according to An-Na´im's account, "*will improve if they can be shown to be the natural and legitimate evolution of the cultural tradition of the particular community.*"[150]

The term culture is used here in its broadest sense as the "*totality of values, institutions, and forms of behavior transmitted within a society, as well as the material goods produced by man and woman; this wide conception of culture covers world view, ideologies and cognitive behavior.*"[151] Culture is therefore the source of the individual and communal world view: it provides both the individual and the community with the values and interests to be pursued in life, as well as the legitimate means for pursuing them. It stipulates the norms and values that contribute to people's perception of their self-interest and the goals and methods of individual and collective struggles for power within a society and between societies. As such, culture is a primary force in the socialization of individuals and a major determinant of the consciousness and experience of the community.[152]

However, since cultures are constantly changing and evolving internally, as well as through interaction with other cultures, it may be possible to influence the direction of that change and evolution through internal discourse about the fundamental values of the culture and the rationale for these values, or from outside through cross-cultural dialogue. In view of the fact that cross-cultural interaction and mutual influence is always occurring, it should not be difficult to introduce into it some elements of a human rights agenda.[153]

The cross-cultural approach seeks to explore the possibilities of cultural reinterpretation and reconstruction through internal cultural discourse and cross-cultural dialogue, as a means to enhancing the universal legitimacy of human rights.[154] Cultural diversity is understood to be unavoidable as the product of significant past and present economic, social, and environmental differences. Given the extreme cultural diversity of the world community, it can be argued, following Michael Walzer's political philosophy, that human rights should be founded on the

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[150] An-Naim Abdullahi Ahmed, "Religious Minorities Under Islamic Law…" Cit., p. 3.
[151] An-Na´im Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives…Cit.*, p. 3.
[152] Ivi, p. 18.
[153] Ivi, pp. 19-20.
[154] Ivi, pp. 21-22.

existing least common denominator, or "minimalist" morality, among these cultural traditions.[155] According to An-Naʿim, however, these "minimalist" morality would not only limit universal human rights and reduce their scope, but also exclude extremely vital and important human rights. Since people are more likely to observe normative propositions if they believe them to be sanctioned by their own cultural traditions, observance of human rights standards can be improved through the enhancement of the cultural legitimacy of those standards. Universal cultural legitimacy is necessary and it is possible to be developed retrospectively in relation to fundamental human rights through enlightened interpretations of cultural norms.[156]

The existing international standards of human rights could be functional for the processes of internal cultural discourse and cross-cultural dialogue for at least two reasons: on the one hand, it is useful to have a framework and the specific provisions of the existing standards as a point of reference in an effort to perfect the concept and better articulate standards of genuinely universal human rights; on the other hand, scholars and activists can derive some protections from the existing standards in their effort to develop and implement more culturally legitimate standards within their respective societies.

Does universal human rights discourse take precedence over contrary cultural practices? According to Richard Falk, in order to be effective at local and community levels, the penetration of the universal human rights must be by way of an opening in the culture itself, not by external imposition on the culture. Therefore, it is of great importance to nurture cultural rethinking, reinterpretation, and internal dialogue.[157] To dictate a moral standard to a society is, in An-Naʿim's account, both unacceptable as a matter of principle and unlikely to succeed in practice; cross-cultural dialogue and mutual influence, however, is acceptable in principle and continuously occurring in practice. This approach assumes and relies on the existence of internal struggle for control over the cultural sources and symbols of power within societies.[158]

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[155] See Walzer, Michael. *Thick and Thin: Moral Argument at Home and Abroad*. Notre Dame: University of Notre Dame Press, 1994.
[156] An-Naʿim Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives…Cit.,* p. 428.
[157] Falk, Richard. "Cultural Foundation for the International Protection of Human Rights", pp. 49-50, in An-Naʿim Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives…Cit.*, p. 44.
[158] An-Naʿim Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives…Cit.*, p. 420.

Professor Alison Renteln also promotes an empirical cross-cultural approach in order to discover values shared by all cultures. However, since many people do not speak English and have no tradition of Enlightenment ideas, looking for the literal existence of human rights will not be fruitful. It is then necessary, according to Renteln, to search for "homeomorphic equivalents"[159] for human rights in other cultures. Therefore, we should look notions comparable to human rights in other cultural systems. States are more likely to comply with standards based on values to which they are committed. If a document contains principally Western values, this would seem to ignore the practical problems of implementation for non-Western countries.[160]

3.3) The Top-Down Approach to Reach a Universal Consensus on Human Rights

Paying more attention to top-down dynamics, human rights scholar Jack Donnelly stresses that it is the "modernity" of human rights ideas and practices that deserves emphasis. Therefore, human rights ideas and practices arose not from any deep Western cultural roots but from the social, economic, and political transformations of modernity. They thus have relevance wherever those transformations have occurred, irrespective of the pre-existing culture of the place.

In early modern Europe, powerful and penetrating (capitalist) markets and (sovereign, bureaucratic) States disrupted, destroyed, or radically transformed "traditional" communities and their systems of mutual support and obligation. Rapidly expanding numbers of (relatively) separate families and individuals were thus left to face a growing range of increasingly unbuffered economic and political threats to their interests and dignity. New "standard threats" to human dignity provoked new remedial responses.[161]

Donnelly presents a "functional" universality of human rights standards that depends on human rights providing attractive remedies for some of the most pressing systemic threats to human dignity. According to him, human rights today do precisely that for a growing number of people of all cultures in all regions,

[159] For a definition of homeomorphic equivalents see Panikkar, Raimon. *Op. Cit.*, p. 77.
[160] Renteln, Alison D. *Op. Cit.*, p. 32.
[161] Donnelly, Jack. "The Relative Universality…" Cit., p. 287.

because, whatever our other problems, we all must deal with market economies and bureaucratic States. Whatever our other religious, moral, legal, and political resources, we all need equal and inalienable universal human rights to protect us from those threats.[162]

By the same token, human rights scholar Rhoda Howard holds that the actual concept of human rights is particular and modern, and "*it represents a radical rupture from the many status-based, non-egalitarian, and hierarchical societies of the past and present.*"[163] Human rights are a modern concept now universally applicable in principle because of the social evolution of the entire world toward State societies. According to this standpoint, human rights are a radically new concept in human history, and their acceptance in any given society constitute a rupture of previous belief systems.[164]

Insisting that the modern State must be the analytical focus, Rhoda Howard shows that even in emerging Western State human rights concepts were formed despite hostile moral precepts then prevailing in Western culture: "*The society that actively protects rights both in law and in practice is a radical departure for most known human societies.*"[165] Therefore, the UDHR and other human rights covenants define what is needed to protect a life of dignity and equality in the modern State. Insistence on the universality of human rights standards is, for human rights scholar Reza Afshari, a political demand for the protection of individuals in the contemporary world of modern States and capitalist economies.[166] The most pressing human rights issue is not local cultural preferences and religious-cultural authenticity; it is the protection of individuals from a State that violates rights, regardless of its cultural-ideological façade. As contended by Afshari:

> International human rights standards serves as a prestigious platform for dissident views that demand changes in all cultural practices that sustain and legitimize human rights violations. If human rights, as envisioned by the Universal Declaration, were in agreement with the world's cultural traditions, there would have been no need for them; they would be a meaningless redundancy or a kind of psychological cushion to

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[162] Ivi, p. 288.
[163] Howard, Rhoda E. "Dignity, Community, and Human Rights" in An-Na´im Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives...*Cit., p. 81.
[164] Ibidem.
[165] Ivi, pp. 87-91.
[166] Afshari, Reza. *Op. Cit.*, p. 10.

make all peoples feel good in the comfort of their own cultural home. Human rights are less about what a culture is than about what it should become by incorporating safeguards that the individual requires to live a life of dignity within a modern State and capitalist economy.[167]

In this vision, the new modern State society prepared the conditions for human equality solely on the basis of being human, without status distinctions. Cultural diversity can also be encouraged, as long as the element of choice is retained and no one is compelled to be part of a particular cultural group. Group membership becomes a matter of private, voluntary choice; no one can be compelled to be a member of a group other than the legal State; anyone may reject his religion; anyone may abandon his ancestral language and customs.[168]

For many individuals, the community and the society in which they are raised and live can be highly oppressive.[169] Human rights give people the right to conduct their lives as they see fit, even when their choices challenge societal or community norms.[170] Group rights –to language, culture, religious expression, and land– are valuable to the degree that they enhance the freedom of individuals. This suggests that when group rights and individual rights conflict, individual rights should prevail.[171] Howard stresses that a community that degrades some of its members is a community in need of change. Moreover, a culture and a community based on systematic degradation must be challenged through internal cultural discourse and cross-cultural dialogue. All persons must be treated equally regardless of gender, racial-ethnic, religious, or linguistic affiliation, and regardless of economic status or class, regardless of voluntary membership.[172]

3.4) The Dialogical Approach to Reach Universality and Understanding in Human Rights

The universality of human rights relates to the idea of survivability in unobstructed and public deliberation -open to participation by persons across

[167] Ivi, p. 290.
[168] Howard, Rhoda E. *Op. Cit.*, p. 41.
[169] Ivi, pp. 7-8.
[170] Ivi, p. 8.
[171] Ignatieff, Michael. *Op. Cit.*, pp. 23-24.
[172] Howard, Rhoda E. *Op. Cit.*, p. 9.

national boundaries, given a reasonably free flow of information and uncurbed opportunity to discuss differing points of view.[173] In this context of open and public discussion, disagreement about human rights "*is a sign -the best possible sign in modern circumstances- that people take rights seriously. The possibility of such debates [...] is not just a feature of what can be called human rights practice, they are actually part of the general discipline of human rights including the underlying theory (rather than being an embarrassment to that discipline).*"[174]

The understanding and feasibility of human rights are, in this perspective, intimately linked with the reach of public discussion and deliberation, between persons and across borders. The viability and universality of human rights are therefore dependent on their ability to survive open critical scrutiny in public reasoning.

Amartya Sen suggests to us to distinguish those values that are dominantly favored in a society from those ones that could be expected to gain wider adherence and support when open discussion is allowed, when information about other societies becomes more freely available, and when disagreements with the established views can be expressed and defended without suppression and fear. Widespread acceptability, which must be distinguished from pre-existing ubiquitous acceptance, is an important issue when we are dealing with the role that human rights play in international relations.[175] Ultimately, as Adam Smith suggested, the discipline of critical moral scrutiny requires, among other things, "*endeavoring to view [our sentiments and beliefs] with the eyes of other people, or as other people are likely to view them.*"[176]

In developing a dialogical approach to human rights, the hermeneutical theories of German philosophers Hans-Georg Gadamer and Jürgen Habermas can provide an interesting theoretical framework.

For Gadamer, understanding a particular subject matter –in our case, universal human rights- occurs with the process of dialogue by which we come to share

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[173] Sen, Amartya. "Elements of a Theory..." Cit., p.320.
[174] Ivi, p. 323.
[175] Ivi, p. 354.
[176] Smith, Adam, and Knud Haakonssen. *The Theory of Moral Sentiments*. Cambridge, U.K: Cambridge University Press, 2002, p. 210.

perspectives, or to fuse horizons.[177] For Habermas, this understanding occurs only when the dialogical process is just and fair. He seeks to ensure that the conditions for dialogue do not contain implicit biases that would distort communication.[178]

Gadamer's concept of the fusion of horizons captures the process of understanding through dialogue between persons. He emphasizes the role of conversations for understanding other perspectives on a shared subject matter. He defines conversation as

> a process of coming to an understanding. Thus it belongs to every true conversation that each person opens himself to the other, truly accepts his point of view as valid and transposes himself into the other to such an extent that he understands not the particular individual, but what he says. What is to be grasped is the substantive rightness of his opinion, so that we can be at one with each other on the subject. Thus we do not relate the other's opinion to him but to our own opinions and views.[179]

We enter into the conversation with an understanding of ourselves as historical beings with distinct perspectives and experiences. Although we, with our unique and individual histories, often fail to understand the views of other persons, conversations may eventually enable us to understand their different standpoints. Through conversations we may experience the fusion of horizons as we come to agreement on a subject matter. Therefore, unavoidable differences among views are not wholly incommensurable.

Habermas's observations of language as a tool for domination serve as a necessary corrective to Gadamer's hermeneutics.[180] Habermas warns that we must always consider the role of power in dialogue if we want dialogue to enable us to view the other as agents in their own right. If we are to understand the motivations of others, then we must engage them in dialogue and allow them to speak for themselves. In understanding the beliefs of others, we achieve a fusion of horizons while standing at our individual vantage points. "*We do not see from the same place, but we do share a view.*"[181]

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[177] Gadamer, Hans-Georg. *Truth and Method*. New York: Crossroad, 1989.
[178] Habermas, Jürgen. *Toward a Rational Society: Student Protest, Science, and Politics*. Boston: Beacon Press, 1970.
[179] Gadamer, Hans-Georg. *Op. Cit.*, p. 385.
[180] Oh, Irene. "Approaching Islam: Comparative Ethics Through Human Rights." *Journal of Religious Ethics*. 36.3 (2008), p. 408.
[181] Ivi, p. 409.

Gadamer insists that dialogue –the discipline of constant inquiry and questioning- "guarantees truth."[182] Therefore, there are real truths for Gadamer that can be revealed, but which we can only find through conversation. Gadamer explains that "*to conduct a conversation means to allow oneself to be conducted by the subject matter to which the partners in the dialogue are oriented.*"[183] Conversation, Gadamer reminds us, creates genuine understanding through the fusion of horizons on a particular subject matter.[184] When we converse with others, we converse about subject matters of shared interest. Most importantly, we do not treat our interlocutors as objects of inquiry. Gadamer thus distinguishes between the understanding of a subject matter and the understanding of the individual. He is clear that in a conversation, we are not primarily seeking to understand the person with whom we speak, but a third object: the subject matter.[185]

Many conversations about human rights take place between persons who do not have the same political power. If equality were a precondition to dialogue, few dialogues would take place. Habermas's insights ought not to prevent conversations, but should rather to heighten awareness of how power imbalances affect dialogue. Furthermore, Gadamer's insistence upon a shared subject matter helps to mitigate the imbalance of power that often exists between interlocutors.

For the international political system, two aspect of the dialogical approach are particularly relevant. First, pre-decision-making deliberation increases the chances that diverse perspectives will be reflected in political decisions, thereby reducing or eliminating biases that might affect decisions made without benefit of deliberation. This point is important for incorporating both different judgments about value and varied sources of factual information in public decision-making. Second, deliberation contributes to a better shared understanding of the abstract moral principles relevant to a political decision.[186]

One possible problem deriving from the dialogical approach is that public discussion may not lead toward a clear consensus on a moral question, but rather to further entrenched differences of opinion. For this reason, public discussion about

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[182] Gadamer, Hans-Georg. *Op. Cit.*, p. 491.
[183] Gadamer, Hans-Georg. *Op. Cit.*, p. 367.
[184] Ivi, p. 307.
[185] Oh, Irene. *Op. Cit.*, p. 413.
[186] Hessler, Kristen. "Resolving Interpretive Conflicts in International Human Rights Law." *Journal of Political Philosophy*. 13.1 (2005), pp. 29-52.

the content of moral human rights may not provide a "better shared understanding" of moral human rights. One part of the response to this problem is to note that, where entrenched differences of opinion arise, it is entirely possible that the issue is one that permits a plurality of responses. For this reason, different interpretations of human rights standards may be equally permissible on moral grounds. Moreover, public discussion tend to keep controversial issues in the public spotlight, so that, as long as those issues are controversial, any legal settlement to those questions will be provisional. Finally, outrageous positions on human rights are likely to be discredited sooner in an open dialogical system than in other systems, so that the remaining disagreement is likely to be reasonable disagreement. Scholar Kristen Hessler remembers that it is not necessary for deliberative decisions to be correct in every single case. What is important is that decisions resulting from dialogical procedures are comparatively more likely to be correct, or at least better justified, than decisions generated by non-dialogical procedures.[187]

The treaty bodies established by the United Nations to monitor the implementation of the major human rights treaties –e.g. ICCPR and ICESCR- were designed on an deliberative and dialogical model. According to James Crawford, the main activity of the treaty bodies -hearing regular reports by States that are parties to the treaties on their progress in implementing the treaties' provisions- was developed "*on the assumption that the examination of reports would lead to a dialogue between each State and the relevant treaty body, and to progressive improvements in compliance.*"[188] While Crawford emphasizes deliberation between the treaty bodies and States' governments, Anne Bayefsky emphasizes the effect of the reporting system on public deliberation within a State: "*The production of a report, in theory, is intended to generate a dialogue within civil society about the requirements of the treaty, the application of the standards to local conditions, the shortfalls in compliance, priorities for redress and the design of a plan of action.*"[189]

However, the treaty body system faces significant challenges in living up to its mandate. According to James Crawford, some of the major problems currently plaguing the UN treaty system include the following: widespread delinquency on the

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[187] Ivi, pp. 30-31.
[188] Alston, Philip, and James Crawford. *The Future of Un Human Rights Treaty Monitoring*. Cambridge: Cambridge University Press, 2000, pp. 1-12.
[189] Bayefsky, Anne F. *The Un Human Rights Treaty System: Universality at the Crossroads*. Ardsley, NY: Transnational Publishers, 2001, p. 13.

part of States submitting reports; inability of treaty bodies to keep up with the reports they do receive; resource constraints, including inadequate staffing and technology; inherent difficulties with a system that depends on the consent of the very States the system is supposed to monitor and criticize; and the costs of implementing proposed reforms. The "underlying" problem is, as Crawford notes, "*the limited will of the States parties [to the human rights treaties] to improve the system.*"[190] Many of these problems could in principle be solved by appropriate institutional reforms. However, the problems resulting from the State-centered nature of the international treaty system are particularly intractable, especially the limited effectiveness of a system that depends on State cooperation in critiquing States' efforts to implement human rights law. However, the consent-based and cooperative nature of the reporting process is probably essential to getting any dialogue with States started in the first place. Kessler notes that the deliberative design of the UN treaty bodies indicates that their interpretations of international human rights standards are not intended as a substitute for national legislation or judicial activity. Rather, they are intended as a stimulant to dialogue either between the government and the treaty body or within the country's civil society (or both) about how the State's legislature or judiciary should themselves implement international human rights standards.[191]

A positive effort to promote a dialogical approach as a means to achieving universalism in international human rights was undertaken by the UN General Assembly with the adoption of the resolution 53/22 on "Dialogue Among Civilizations" in November 1998.[192] Human rights scholar Mashood Baderin considers dialogue among peoples as a basis for the rule of law against the rule of force.[193]

In introducing the draft resolution calling for the declaration of the year 2001 as the United Nation Year of Dialogue Among Civilizations under Item 168 before the UN General Assembly on 4th November 1998, the Iranian Deputy Foreign Minister, Dr. Javad Zarif proposed the concept by stating, inter alia, that:

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[190] Alston, Philip, and James Crawford. *Op. Cit.,* p. 10.
[191] Hessler, Kristen. *Op. Cit.*,   p. 46.
[192] UN General Assembly. Resolution 53/22 "United Nations Year of Dialogue among Civilizations." Adopted on November 4th, 1998. Accessible at: http://www.un.org/documents/r53-22.pdf
[193] Baderin, Mashood A. *Op. Cit.*, p. 10.

As we the people of the United Nations look back and take stock of half a century of Charter existence, together with achievements, historic as they are, including the very establishment of the Organization, we seek dark episodes of bigotry, exclusion, confrontation and bloodshed [...] But these are aberrations, not the norm. The last decades [...] following the advent of the United Nations have been symbolized by a universal desire to promote peace, tolerance and understanding and ensure social, economic and political development through international cooperation and solidarity. Certainly, such progress has not come easy since old habits fade only after resistance and friction. Even today, attempts are being made to institutionalize and even sanctify and thus perpetuate the mentality associated with rivalries and conflicts by elevating the clash of rival political and economic interests to the level of irreconcilability of civilizations and their inevitable clash. It is evident that on the eve of the new millennium the world cannot afford to begin a new chapter in its life with such dangerous ideas which give rise to intolerance and ignore the ever-growing communications and interaction among nations in an increasingly interdependent world. We should enter the next century with common resolve aimed at minimizing conflicts and utilizing the strengths of human diversity for the promotion of dialogue among nations.[194]

3.5) Islam and Human Rights

The subject matter of Islam, as a living religion with more than one and a half billion adherents[195], must enter into conversation not as an objectified monolithic tradition but as a diverse, dynamic, and complex system of belief whose followers stand on equal footing with other participants in human rights conversations. The dialogical approach presented before requires that we understand religions as traditions of persons with moral agency. Recognizing the complexity of Islam and other religious traditions makes it impossible to resort to those kind of generalizations that foster discrimination and hatred. Moreover, a dialogical approach emphasizes that Muslims are moral agents with reasons for acting,

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[194] See par. 2-4, Statement by H.E. Dr. Javad Zarif, Deputy Foreign Minister of the Islamic Republic of Iran before the UN General Assembly Under Item 168 (Dialogue Among Civilizations), 4 November, 1998. Available at: http://www.iran-un.org/index.php?option=com_content&view=article&id=633:nov-4-1998-statement-by-deputy-foreign-minister-before-the-un-general-assembly-on-dialogue-among-civilizations&catid=57:dialogue-among-civilizations&Itemid=69

[195] See Grim, Brian J, and Becky Hsu. "Estimating the Global Muslim Population: Size and Distribution of the World's Muslim Population." *Interdisciplinary Journal of Research on Religion*. 7 (2011), pp. 1-19.

believing, and thinking as they do. Hence, they become human participants in the global dialogue on universal human rights.[196]

Muslims are split among many different approaches to human right, and there is a wide variety of interpretations of Islamic teachings in the Muslim world.[197]

According to traditional interpretations, Islam excludes entire categories of people, most notably women and non-Muslims, from equality under the law. This is not to say that Islam, especially at the time of its inception, was a particularly unjust system of ethics. In fact, until quite recently Islam was much more tolerant of some religious minorities than, for example, Christian Europe of any among them. Although only Muslim males enjoyed full rights, the *dhimmis* (people who were afforded the legal status of *dhimma*) were granted legal protections at a time when Christian Europe was torturing and expelling Muslims and Jews.[198] Human rights scholar Rhoda Howard notices that, while the Western world shifted from a communitarian, hierarchical, and religion-centered conception of rights, the Islamic world has not, by and large, done the same.[199] The most critical challenge facing the traditional Islamic leadership is to search for an inclusive political theology that no longer relies on faith in determining an individual's rights and duties. Since Islamic scholars and religious leaders have discussed and embraced the concept of human rights using a religious and moral vocabulary, human rights can be adopted as an ideal subject matter for understanding Islam through dialogue.

Professor of ethics Irene Oh notices that current discussions on human rights and Islam, instead of focusing on how Islamic thinkers consider human rights, tend to concentrate on whether or not Islam in itself supports human rights. The distinction between these two types of discussions highlights the difference between an objectifying method of acquiring knowledge, in which Islam and Muslims are the object of study, and a dialogical approach in which human rights become the subject matter. Following Gadamer's standpoint, the subject matter of human rights should become the basis for a dialogue with Islamic thinkers who

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[196] Oh, Irene. *Op. Cit.*, p. 422. See also Idris, Sajjad. *Op. Cit.*, p. 549.
[197] Howard, Rhoda E. *Op. Cit.*, p. 92.
[198] Ivi, pp. 93-94.
[199] Ivi, p. 94.

speak as agents and express their views as participants in the search for knowledge and truth.[200]

From the first appearance of modern human rights talk into the world public milieu, Islamic thinkers regarded as traditional or conservative not only agreed with the idea of human rights, but also held that Islam supported human rights. Although, as we saw, the concept of human rights has its origins in Western European thought and tradition, Islamic scholars supported human rights on the basis of their own religious beliefs. Their championing of human rights independent of coercive influences indicates their free participation in dialogue about human rights. Even if, in many aspects, they did not support human rights in the same manner as their Western counterparts, their embrace of human rights reveals that certain subject matters, as human rights, present the opportunity for equality in participation in dialogue.

Some prominent Muslim thinkers from different countries and religious schools of thought, such as Pakistani theologian and political philosopher Abul A'la Mawdudi[201], Islamist theorist and leader of the Egyptian Muslim Brotherhood, Sayyid Qutb[202], and Iranian author of a Muslim commentary on the Universal Declaration and a member of the Sufi Order, Sulṭān Hussein Tābandeh[203] entered freely into the global discussion on human rights while framing human rights within a larger political context. Not only did they accept the idea of human rights, but hailed human rights as an expression of Islamic values. The fact that Tābandeh, Mawdudi, and Qutb so readily accepted human rights as a legitimate ethical concept, in spite of its association with Western ideas and institutions, attests to the potential of human rights as an ideal subject matter for dialogue across traditions. They perceived human rights as a topic open to discussion regardless of one's cultural, religious, or political affiliation—and enthusiastically supported the idea of human rights.

While these thinkers entered into conversation willingly, they and their Western interlocutors remain in a relationship of unequal power. Mawdudi,

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[200] Oh, Irene. *Op. Cit.*, p. 410.

[201] Mawdudi, Abul Ala. *Human Rights in Islam*. London: Islam Foundation, 1976.

[202] Qutb, Sayyid. *Social Justice in Islam*. 1963. Translated by John B. Hardie. Oneonta, N.Y.: Islamic Publications International, 2000.

[203] Tābandeh, Sulṭān H. *A Muslim Commentary on the Universal Declaration of Human Rights*. Guildford: F. J. Goulding, 1970.

Tābandeh, and Qutb write about human rights not only as participants in a global discussion, but with an attitude of resistance against more powerful colonial nations that were affecting Muslim society. For example, as much as Mawdudi and Qutb are intent on proving that the West is inimical to human rights, they are eager to present Islam as paradigmatic of human rights.

The fact that such traditionalist scholars hailed human rights counters Donnelly's claim that Islam and human rights are incompatible on the grounds that the language of rights does not exist in the *Qur'an*.[204] For scholars of Islam, including Mawdudi, Tābandeh, and Qutb, who defend the first generations of Muslims as the exemplars of their tradition, religion can accommodate progresses of the modern day. Certainly, the first Muslims who lived in the seventh century were unaware of the concept, much less of the language, of human rights. Mawdudi, Tābandeh, and Qutb, however, do embrace and incorporate human rights into their writings on Islam.[205]

Rather than the difficult unilateral demand for complete reform of Islamic law, the dialogical approach demands a bilateral harmonization of the theocentric and anthropocentric differences.[206] It is the investigation of the ethical underpinnings of the revealed texts of Islamic tradition that can lead the necessary reform of discriminatory laws to meet the universal standards recognized in human rights norms. [207]

Following this pattern, Muslim and human rights scholar Abdulaziz Sachedina holds that, in Muslim societies, human rights can be more readily defended by claims about human dignity and the equal creation of human being by God.[208]

> In the postcolonial age, and more particularly in the age of economic and cultural
> globalization, it is important to dispel doubts about the universality of human rights
> by seriously engaging metaphysical and epistemic foundations of human rights norms

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[204] Donnelly believes that religious duties are "neither derivative from nor correlative to human rights," and therefore only Western liberalism can offer a paradigm for human rights (Donnelly 1989, 50). The distinction between rights and duties, however, does not necessarily mean that a religious tradition cannot support human rights. The mere lack of the language of rights in a tradition's founding scripture does not equate to a religious tradition's incapacity for human rights. Especially because major world religions, including Islam, date back well over a millennium (and more), literal translations of segments of religious texts provide only limited insight into religions' compatibility with human rights.
[205] Oh, Irene. *Op. Cit.*, p. 418.
[206] Baderin, Mashood A. *Op. Cit.*, p. 25.
[207] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights…" Cit., p. 103.
[208] Sachedina, Abdulaziz A. *Op. Cit.*, p. 12.

to demonstrate that these norms can be essentially grounded in religious notions about human dignity and divinely ordained human freedom of will. Religious doctrines have the potential of working toward an overlapping consensus on important articles in the Declaration.[209]

Sachedina contends that the idea of *fitra*, meaning "intuitive reasoning," does exist in Islamic scripture and theology and resembles the concept of conscience, which implies "universal ethical cognition." There is, in fact, agreement among classical Arabic lexicographers that the essential meaning of the word *fitra* signifies something natural, native, innate, original, or another quality or property with which humans are created by God.[210] Hence, the word *fitra* points to an inherent moral capacity assumed to be available to all human beings prior to any particular commitments they may undertake, religious or otherwise, or to any particular special social, political, or cultural identity they may come to acquire. This idea provides, according to Sachedina's account, an analogue in Islam to the concept of natural law and natural rights in Western Christianity. As in the Western example, it is this inherent moral capacity, with its accompanying "natural" standards for judging right from wrong, that becomes the basis for universal moral and legal accountability, regardless of creed, opinion, or identity.[211] Beyond the Qur'anic warrants, Sachedina supplies additional Islamic evidence in support of a set of limited, relatively free-standing, universally binding moral and legal norms taken to constitute an understanding of minimal human dignity. This evidence draws on the Mu'tazilite tradition, which emphasizes the human capacity for rational judgment in morality and other matters, prior to and independent of revelation. This doctrine was the basis for human moral worth as well as moral agency – the two prerequisites for a claim of universal human rights.[212]

Following the bottom-up and cross-cultural approach proposed by Muslim legal scholar Abdullahi Ahmed An-Naʾim, Sachedina contends that the enforcement of human rights will be taken even more seriously by Muslims if one can derive the inherent worth of the individual and argue for freedom of religion. The Qur'anic notion of universal morality with which all human beings are blessed and held accountable to God, regardless of their particular faith commitment or even lack of

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[209] Ivi, p. 16.
[210] Ivi, p. 93.
[211] Ivi, pp. 86-87.
[212] Ivi, p. 91.

it, makes it legitimate, according to Sachedina, to speak about an Islamic idea of natural law. The moral law, then, is universal and can be discovered by all due to the simple fact of sharing a common humanity through creation.[213]

"To you your religion, and to me my religion" (Q. 109:6)[214]

From this Qur'anic verse, Sachedina holds that for the *Qur'an* it was a given fact that different communities and groups ought to come to terms with the reality of cultural and religious diversity and regulate inter-human relationship according to a tolerance principle.

"There is no compulsion in [acceptance of] the religion. The right course has become clear from the wrong." (Q. 2:256) [215]

From this other Qur'anic verse, he stresses how, in God's wisdom, human beings were to be left alone to exercise their decision in the matter of religion. The Qur'anic emphasis on the fact that not even the Prophet could compel people in choosing their spiritual destiny was the cornerstone of the Islamic notion of tolerance in the public domain.[216] Prophet Muhammad himself is reported to have said that God stated: "*I have forbidden oppression for myself and have made it forbidden amongst you, so do not oppress one another.*"[217]

According to Sachedina, since the *Qur'an* makes reason a separate source of moral guidance, not to contradict but rather to complement the Revelation, it is possible to speak about a universal morality based on religious premises; these religious premises provide the foundation for an ideal public order that acknowledges human moral agency as well as the human's inherent dignity as part of God's natural endowment through equal creation of all humans as human. It is then possible, in Sachedina's account, to reconcile such religiously inspired concept of morality with the secular view of universal morality that undergirds the Universal Declaration of Human Rights. These two universalisms share a common

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[213] Ivi, p. 38.
[214] *The Qur'an*. New York: Oxford University Press, 2005, sura *Al-Kafirun*, Trans. Abdel, Haleem M. A.
[215] Ivi, sura *Al-Baqarah*.
[216] Sachedina, Abdulaziz A. *Op. Cit.,* p. 81.
[217] Nawawī, 'Izz -D. Ibrāhīm, and Denys Johnson-Davies. *An-nawawī's Forty Hadith*. Damascus, Syria: Holy Koran Pub. House, 1977, p. 80.

understanding of what it means to be an autonomous moral agent endowed with inherent dignity, able to claim a set of inalienable human rights simply as human.[218]

Sachedina sharply critiques the Cairo Declaration of Human Rights in Islam (1990), which affirms "freedom" and "the right to dignified life" for all humanity, but only insofar as those ideals are defined "in accordance with the Islamic *Shari'ah*."[219] This document, according to scholar and human rights advocate Ann Mayer, is sharply in disagreement with the International Bill of Human Rights, since it asserts an Islamic counter model of human rights[220]. Preparation of the Organization of the Islamic Conference (OIC) document took place in Tehran in December 1989 in the course of a meeting of experts. During these meetings, Iranian Foreign Minister Ali Akbar Velayati condemned the use of the human rights issue for political purposes[221]. Ministers from the members of the OIC joined in endorsing the Cairo Declaration on Human Rights in Islam on 5 August 1990, following the Universal Islamic Declaration of Human Rights proclaimed at UNESCO in 1981. Mayer stresses that, although the Cairo declaration presupposed a consensus on Islamic rights, this consensus did not, in fact, exist. Its principles were in conflict with many in the constitutions and domestic laws of OIC member countries and were also impossible to reconcile with many OIC members' obligations in terms of their international commitments as signatories of human rights conventions.[222]

Iranian human rights activist and Nobel laureate Shirin Ebadi also expresses her opposition to the Islamic Declaration on Human Rights, for if Muslims want to have their own universal declaration of human rights based on their own religious premises, then we must grant the same right to the followers of all other religions as well. Since it is impossible to run the world based on the many faiths and religious belief systems that exist, it is necessary to have as a common starting point the principles to which we can all agree, not those on which we differ.[223]

The character of the Cairo declaration was also denounced by the Geneva-based International Commission of Jurists (ICJ) when it was submitted in 1992 to the UN

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[218] Sachedina, Abdulaziz A. *Op. Cit.,* p. 100.
[219] See http://www.oic-oci.org/english/article/human.htm
[220] Mayer, Ann Elisabeth. "Universal Versus Islamic Human Rights: a Clash of Cultures or a Clash with a Construct?" *Michigan Journal of International Law*. 15.2 (1994), p. 327.
[221] Ivi, p. 328.
[222] Ibidem.
[223] Ebadi, Shirin. "Islam, Human Rights, and Iran." *Emory International Law Review*. 23.1 (2009, p. 14.

Human Rights Commission, on which occasion Iran and Iraq both pressed for its acceptance. Adama Dieng, the Senegalese secretary-general of the ICJ, condemned the declaration for challenging the intercultural consensus on the international human rights standards, introducing discrimination against non-Muslims and women, deliberately restricting certain fundamental rights and liberties, and ratifying under the cover of *Shari'ah* the legitimacy of practices such as corporal punishment, that attack the integrity and dignity of the human being.[224]

According to Heiner Bielefeldt, the Cairo declaration could be considered as an essentialist attempt aimed at the Islamization of human rights language at the expense of both the universalism and the emancipator spirit of human rights.[225] The central role of the Islamic *Shari'ah* as both the frame of reference and the guideline of interpretation of the Cairo declaration manifests itself throughout the document, especially in its two final articles that state, "All the rights and freedoms stipulated in this declaration are subject to the Islamic *Shari'ah.* The Islamic *Shari'ah* is the only source of reference for the explanation or clarification of any of the articles of this declaration."[226]

So long as the superiority of the *Shari'ah* as a divine and inalterable set of legal norms is unchallenged in theory, the legitimacy of human rights remains precarious. Either human rights suffer from the failure of not being considered legitimate in the full sense of the word, or the danger arises that conceptual differences between *Shari'ah* law and human rights are simply harmonized with the result of an "Islamized" version of human rights. Liberal Muslim intellectuals do not indeed content themselves with suggesting merely pragmatic reforms. What they demand is a courageous and frank criticism of the Islamic *Shari'ah*, a criticism that, although not necessarily calling for the dismembering of the *Shari'ah* tradition, is meant to lead to a thoroughly revised understanding of the main sources of the *Shari'ah*, namely, *Qur'an* and *Sunna*. Liberal Muslims argue that the principles of human rights and democracy can be connected meaningfully with the spirit of the *Shari'ah*, provided that the *Shari'ah* is primarily understood as an ethical and a religious concept, rather than as a legalistic one. A very brave and, at the same time, highly

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[224] Ann Elizabeth Mayer, "Islamic Rights or Human Rights…" Cit., p. 277. See also Vichniac, Isabelle. "La Commission internationale de juristes denonce un projet de 'declaration des droits de l'homme en Islam,'" *Le Monde,* 13 February 1992, p. 6, and Littman, David G. "Human Rights and Human Wrongs*", National Review Online*. Jan. 19, 2003.

[225] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights…" Cit., pp. 103-104.

[226] See http://www.oic-oci.org/english/article/human.htm

controversial interpretation of the *Qur'an* has been proposed by the Muslim legal scholar Abdullahi Ahmed An-Naʾim. Taking up a method developed by his teacher, the Sudanese religious thinker Mahmoud Mohammed Taha, An-Na'im distinguishes systematically between *suras* revealed in Mecca and *suras* revealed in Medina. This difference has always been acknowledged in Islamic exegesis. What is new in An-Na'im's approach, however, is that he understands the two stages of revelation as entailing a theological ranking: whereas the *suras* of the Mecca period contain the eternal theological message of Islam, the Medina parts of the *Qur'an* refer mostly to the specific needs and circumstances of the first Muslim community and cannot be immediately applied to modern society. Whereas, in An-Na'im's opinion, some Qur'anic principles are indeed of timeless validity, others contain rules that can be appreciated as examples of an Islamic way of life within a particular historic context without being immediately binding for Muslims today. In such a way, An-Na'im wants to develop a modern version of Islamic law that ought to be in accordance with international standards of human rights:[227]

> It may take some innovative reinterpretation of traditional norms to bring them into complete accord with the present formulation of the international standards, but the essence of these standards is already present [...] This is particularly true of the Islamic tradition.[228]

4) Cultural Relativism in Human Rights Discourse

The most common argument for relativity appeals to culture as the source of validity of rules and claims. The moral theory supporting cultural relativism holds that although for every culture some moral claims are valid, no moral claim is universally valid, that is, valid for all cultures. Therefore, every moral claim is culturally relative. Cultural relativism can alternatively be expressed as the view that, although all cultures are subject to moral standards, it is not possible to uphold a moral standard that applies to all cultures.[229] Cultural relativism is then, according

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[227] An-Naʾim Abdullahi Ahmed, "Religious Minorities Under Islamic Law and the Limits of Cultural Relativism." *Human Rights Quarterly*. 9.1 (1987), p. 13.
[228] Ivi, p. 4.
[229] Tilley, John J. "Cultural Relativism." Cit., p. 505. See also Tilley, John J. "Cultural Relativism, Universalism…" Cit., pp. 275-297.

to philosopher John Tilley, a meta-ethical standpoint that limits the scope and reach of each moral claim's validity.[230]

Much of the attractiveness of cultural relativism stems from its association with other positions, such as fallibilism, the pluralist stance towards the human good, and the tolerant attitude towards other cultures.

According to the first one of these positions, that of fallibilism, all knowledge is tentative and provisional. There are no beliefs of which we can be absolutely certain, no incorrigible truth on which our belief system can be founded. Fallibilism differs from cultural relativism in so far as its implication for moral claims is that we cannot be absolutely certain of the validity of any moral precept; thus, to show that certainty is impossible is not to refuse universalism, since universalism is not about the certainty that attends, or does not attend, moral principles, but it is about the scope of the validity of a moral principle. Fallibilism implies merely that such moral beliefs are "tentative" or "provisional"; it implies that these beliefs could be corrigible, or in principle revisable. Furthermore, fallibilism is no more congenial to cultural relativism than it is to universalism; in fact, anything fallibilism implies about human beliefs applies to all human beliefs, including the relativist ones.[231] We must then distinguish cultural relativism from fallibilism, and, at the same time, universalism from the denial of fallibilism. The debate between relativists and universalists arises within the "fallibilist camp", not beyond its borders.[232]

Another different position with which cultural relativism could be confused is the pluralist stance about human good. To hold that human beings are all alike in at least some respects concerning human rights –i.e. equality principle- is not to state that human beings are alike in all other respects; it is not to aver that the same things are good or bad for all human beings. Even though some needs, social as well as biological, are common to all human beings, other needs are not common to all human beings. To say that a specific way of life is good for one or more human beings is not to state that the same way of life is good for every human being, and a way of life bad for one or more human beings might not be bad for every human being. Both universalism and pluralism about human good are correct because human beings are all alike in some respects such that some things that are good for

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[230] Tilley, John J. "Cultural Relativism." Cit., p. 509.
[231] Tilley, John J. "Cultural Relativism, Universalism…" Cit., p. 278.
[232] Tilley, John J. "Cultural Relativism." Cit., p. 524.

some human beings are good for every human being and some things that are bad for some human beings are bad for every human being.[233]

Cultural relativism could also be presented as the position that promotes tolerant behaviors towards other cultures. Cultural relativism implies that we cannot impose our morality on other cultures, which in turn implies that we must refrain from doing so. And to refrain from doing so means to be tolerant. Thus, if we accept relativism we are logically committed to a policy of tolerance.[234] As expressed by scholar Melville Herskovits, one of the founders and leading proponents of cultural relativism, "*to say that we have a right to expect conformity to the code of our day for ourselves does not imply that we need to expect, much less to impose, conformity to our code on persons who live by other codes.*"[235] Universalism, however, does not rule out tolerance. As highlighted by Tilley, to be a universalist is to think that some moral claims are universal, meaning that everyone is subject to them. The fact that a practice conflicts with a universal moral standard does not entail that we should interfere with this practice. Whether we should interfere depends on many things other than its moral status. For example, it depends on how harmful the practice is and on how much harm we might produce by interfering with it.[236]

Positive interference should be first and foremost in the form of cross-cultural dialogue and education. Moreover, we should not confuse this interference with a form of paternalism. In fact, paternalism can be defined as an intervention in a person's self-regarding choices on the grounds that the intervention is good for that person. International intervention to defend human rights can be misleadingly conceived as a form of paternalism due to the analogy between person and State, which brings us to treat the State as if it had the moral attributes of a person rather than as an aggregate of separate persons with wills and interests of their own. However, as stressed by Charles Beitz, in typical cases of interference based on human rights, the justification appeals not to paternalistic considerations but to the desirability of preventing a harm or securing a benefit for someone threatened by another agent's wrongful actions or omission.[237]

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[233] Perry, Michael J. *Op. Cit.*, pp. 461-509.
[234] Tilley, John J. "Cultural Relativism." Cit., p. 517.
[235] Herskovits, Melville J. *Cultural Relativism; Perspectives in Cultural Pluralism*. New York: Random House, 1972, p. 15.
[236] Tilley, John J. "Cultural Relativism." Cit., p. 543.
[237] Beitz, Charles R. *Op. Cit.*, p. 273.

Furthermore, as we saw before, cultures are not all-encompassing monolithic entities: indeed, when we are concerned about a violation of human rights, we are usually not confronted with a situation in which people are unanimous in endorsing those standards of conduct that justify the behavior of concern. The distinction between insiders and outsiders, between a "we" believing in human rights and a "they" not upholding to them is misleading. Among "them", there are oppressors and victims, and usually there is little reason to believe that all the victims share the same values.

Cultural relativism, finally, must not be confused with moral nihilism, the view that every moral statement is either false or meaningless and hence valid for no one.[238] Relativism and nihilism are indeed distinct in important regards: whereas cultural relativism, as we stated above, is the position that some moral claims are valid only in relation to specific cultures and social groups, nihilism is the view that there is no such thing as truth, that no propositions are valid at all, and that truth is fictive. The relativist position holds that there are a lot of valid claims; the nihilist holds that there is none.[239] Relativists agree with universalists that many moral claims are valid, although they differ from universalists in thinking that moral validity is always culturally restricted rather than universal.

After having discussed the positions with which cultural relativism has been often associated or confused, we can further distinguish, following Jack Donnelly's account, between methodological and substantive cultural relativism. Methodological cultural relativism was upheld, especially by Western anthropologists, during the first half of the twentieth century. Anthropologists advocated a radically non-judgmental analysis of cultures in order to free their discipline from conscious or unconscious biases rooted in describing and judging other societies according to modern Western categories and values. Whenever human rights are at stake, however, cultural relativism typically appears in the form of a substantive moral and normative doctrine that demands respect for cultural differences. Cultural relativists claim that pressing for the universality of human rights in their international formulations involves a failure to respect the diversity of cultures.[240] In the face of divergent cultural traditions, the norms of the Universal

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[238] Knorpp, William M. "What Relativism Isn't." *Philosophy*. 73.284 (1998): 277-300, p. 278.
[239] Ivi, p. 284.
[240] Mayer, Ann E. "Universal Versus Islamic Human Rights…" Cit., p. 382.

Declaration are then considered as having no moral or normative force. Practice, as cultural relativists continue, is to be evaluated by the standards of the culture in question.[241] As stressed in the Statement on Human Rights, released by the American Anthropological Association (AAA), "*standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole.*"[242] This statement appeared in a 1947 issue of the *American Anthropologist* and was submitted to the UN Commission on Human Rights, while it was working on the UDHR draft.[243]

Cultural pluralism and diversity are sheer facts. Different cultures accept radically different moral principles. Cultures differ, often significantly, across time and space; however, the need to acknowledge diversity and variation applies not only between cultures, but also within each local culture. Cultural relativists tend, instead, to totalize the concept of culture, as if wanting to believe that there must be a single, uniform dominant culture within any given society, disregarding empirical evidence of variety and diversity within the same culture.[244] Both Western and non-Western traditions have much variety within themselves. Some traditions have emphasized order and discipline, while others have focused on freedom and tolerance. It is important to stress once again that the idea of human rights as an entitlement of every human being, with a universal scope and a highly articulated structure, is really a recent development, not an ancient or a traditional idea.[245] The recognition of diversity within different cultures is important in order not to recur to oversimplified generalizations about "Western civilization," "Asian values," "African culture," "Middle Eastern civilization," and so on.

Amartya Sen stresses that "*there is often a dramatic neglect of heterogeneity within each country and culture.*"[246] Cultures, in fact, are not homogenous, coherent, consensual, or static entities. Cultures are clusterings of symbols, practices, and meanings over and with which members of a society constantly struggle.

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[241] Donnelly, Jack. "The Relative Universality…" Cit., p. 294.
[242] American Anthropological Association. "Statement on Human Rights." *American Anthropologist*. 49.4 (1947), p. 541.
[243] Renteln, Alison D. *Op. Cit.*, p. 82.
[244] Mayer, Ann E. "Universal Versus Islamic Human Rights…" Cit., p. 384.
[245] Sen, Amartya. "Universal Truths: Human Rights…" Cit., pp. 40-43.
[246] Ibidem.

Underneath the official cultural positions handed over by powerful spokespersons or government representatives, there are often unofficial beliefs about the nature of "right" and "wrong."[247] Culture is not destiny -or, to the extent that it is, it is only because provisional victorious elements in a particular society have used their power and influence to create a contingent destiny.[248]

Culture, like the individual, is adaptive. Customs, values, and norms do indeed help to keep society together, and elements of cultures do have a strong hold on people's individual psyches, but they are also permeable and changeable. Indeed, change is part of the nature of cultures, which are above all social creations.[249] "*Culture must be continuously produced and reproduced by man. Its structures are, therefore, inherently precarious and predestined to change*"[250]. This is not to argue that all cultural change is benign. In the past, forcible change was imposed on many indigenous cultures that came under colonial rule.[251] Cultures certainly do change as a result of exogenous or foreign influence, but on the one hand, exogenous influence is not always detrimental or of hostile intent, and on the other hand, cultures can also change endogenously without any foreign influence whatsoever. They frequently do so as a result of internal conflicts over what are the most valuable prescriptive norms.[252] If a culture were an all-encompassing monolithic entity, it would be impossible in practice for philosophers, lawyers, human rights activists, or ordinary people to transcend cultural-boundaries and to make ethical judgments of their own customs. According to this standpoint, the only way to promote universal human rights would be to wait until cultures evolve internally. This is against, once again, empirical evidence, since the great Prophets –Moses, Jesus, Muhammad- were all critics of their own cultures, as are and were the many social activists like Mahatma Gandhi, Martin Luther King, the Dalai Lama or Shirin Ebadi in the contemporary era.[253]

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247 Howard, Rhoda E. *Op. Cit.*, p. 56.
248 Donnelly, Jack. "The Relative Universality…" Cit., p. 295.
249 Howard, Rhoda E. *Op. Cit.*, p. 59.
250 Berger, Peter L. *The Sacred Canopy: Elements of a Sociological Theory of Religion*. Garden City, N.Y: Doubleday, 1967, p.6.
251 Howard, Rhoda E. *Op. Cit.*, p. 60.
252 Ivi, p. 61.
253 Ivi, p. 57.

Cultural relativism in its extreme formulation has been differently called "radical cultural relativism"[254] or "cultural absolutism."[255] This view declares that a society's culture is the supreme source of validity of a moral right or rule. It thus posits particular cultures as having more ethical value than any universal principle of justice. The extreme or absolutist cultural relativism position claims that human rights are not relevant to cultures that do not share "Western" customs, norms, beliefs, and values. The notion of human rights culturally specific to the Western world. Different societies have different cultures that are not comparable.[256] Human rights, as we can read from a famous phrase coined by Adamantia Pollis and Peter Schwab, two leading cultural relativists in the international human rights debate, are said to be a "Western construct with limited applicability."[257] Implied is that they are not and cannot be universal. According to Adamantia Pollis and Peter Schwab, in fact, since human rights originated historically in Western Europe and North America, they are essentially connected and indeed confined to the cultural and philosophical concepts of the Occidental tradition.[258] Universal human rights are hereby considered untenable because, in principle, human rights are not a universal cultural ideal. The concept of human rights is universal -conceptual universality- but the content -substantive universality, what, concretely, are or ought to be these rights- varies among different societies.

All cultures, according to this extreme relativist view, have some ideals of human rights, although these ideals may seem strange according to the UN human rights framework since they do not include fundamental norms such as, for instance, equality. This approach argues that all systems of social justice are systems of human rights, and that it is more important to give all systems of social justice the label of human rights than to differentiate among such systems and discover which ones allocate substantive and equal rights and dignity to all individuals purely on the basis of their shared humanity and which ones allocate privileges and duties contingent on unequal social status. Radical cultural relativists or cultural absolutists do not fully reject universalist ethics as they claim to do.

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[254] Donnelly, Jack. "Cultural Relativism and Universal Human Rights." *Human Rights Quarterly*. 6.4 (1984): 400-419.
[255] Howard, Rhoda E. *Op. Cit.*, p. 51.
[256] Howard, Rhoda E. "Cultural Absolutism and the Nostalgia for Community." *Human Rights Quarterly*. 15.2 (1993), pp. 315-338.
[257] Pollis, Adamantia, and Peter Schwab. *Human Rights: Cultural and Ideological Perspectives*. New York: Praeger, 1979, pp. 1-18.
[258] Ibidem.

They actually posit one universal ethical law, by saying that: "*a) there are no universal moral principles; b) one ought to act in accordance with the principles of one's own group; and c) (b) is a universal moral principle.*"[259] In their viewpoint, such law should have more moral weight than the principles of universal human rights, even though it is in itself a principle that could hardly be found in any cultural systems. In fact, if we were to look for it, we would probably find that most cultures believe that their own moral principles ought to be universal. Therefore, most people rooted in their own cultures would support the logical position that: "*a) there are universal moral principles; b) our own culture embodies these principles; c) everyone else ought to follow our principles even if this means abandoning his or her own culture.*"[260] According to Rhoda Howard, it is precisely because of each society's tendency to think its own culture as the best and most desirable that we need a basis for evaluating social justice that is not culture-bound. To evaluate particular practices within cultures does not, however, mean judging or ranking cultures as a whole; such evaluation does not release the sensitive outsider from the obligation to transcend his/her own cultural background when observing others.[261]

Following the pattern of extreme or absolutist cultural relativism just described, Alison Renteln believes that the 1948 Universal Declaration of Human Rights was so heavily influenced by Western thought as to have no pertinence to non-Western societies; indeed, she considers human rights as an ethnocentric value expression of Westerners. But at the same time, she argues that all societies do have their own human rights standards. In order to avoid ethnocentrism, she proposes that the only universal human rights standards should be those empirically shown universal cultural ideals. Renteln believes that it is possible to discover human rights, or their "homeomorphic equivalent" in all societies.

As an example of how to identify her universal homeomorphic equivalents, she uses the international legal prohibition of genocide. She reviews anthropological studies of retribution, feuds, and vendettas which, she argues, show that there are cultural rules of vengeance in most societies that limit the number of deaths permitted. This, Renteln argues, is evidence of a universal standard against genocide that is culturally entrenched, not dependent on a Western ethical norm. "*Where it is*

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[259] Téson, Fernando R. "International Human Rights and Cultural Relativism." *Virginia Journal of International Law.* 254 (1985), p. 888.
[260] Howard, Rhoda E. *Human Rights and the Search…*Cit., p. 55.
[261] Ibidem.

possible to demonstrate acceptance of a moral principle or value by all cultures, it will be feasible to erect human-rights standards. The reality of universality depends on marshaling cross-cultural data."[262] Thus, in practice, Renteln does not completely reject universality. But she argues for additive, rather than ethical, universality: only a principle shown to be universal once we have looked for its presence or absence in all cultures is legitimate.[263] We could certainly accept Renteln's view that international human rights standards have a better chance of being put into practice if they also reflect cultural ideals. This is a position that the Muslim legal scholar Abdullahi Ahmed An-Na'im also suggests in his search for Qur'anic justifications for equal rights for women, better treatment for religious minorities, and the end of the notion of *jihad* (holy war) as a basis for relations between Muslim and non-Muslim States.[264] There is a difficulty, however, of limiting moral claims to those principles existing in all cultural traditions rather than acknowledging the legitimacy of abstract, philosophical consideration. These ethical questions are in fact trans-cultural and hinder, as delineated above, the preemptive claim of cultures to a superior moral status.[265]

Charges that human rights are Western ethnocentric values had already been raised during the Second World Conference on Human Rights, held in Vienna in 1993, by delegates of non-Western countries, especially Asian and Middle Eastern countries.[266] Eventually, the Vienna Declaration and Programme of Action, adopted by consensus by the representatives of the 172 States who attended the World Conference on 25 June, 1993, did not expressly endorse cultural relativism; instead, the declaration repeatedly reaffirmed the universal nature of rights and freedoms.[267] However, it included a notation of the significance of regional particularities and of regional human rights regimes as agents of universalism in international human rights, and it required that historical, cultural, and religious backgrounds should be born in mind.[268]

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[262] Renteln, Alison D. *Op. Cit.*, p. 135.
[263] Ibidem.
[264] An-Na'im Abdullahi Ahmed, "Religious Minorities Under…" Cit., p. 4.
[265] Howard, Rhoda E. *Human Rights and the Search…*Cit., p. 56.
[266] Mayer, Ann E. "Universal Versus Islamic Human Rights…" Cit., p. 371.
[267] See in particular Paragraphs 1, 5, 32, 37 at http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en
[268] Mayer, Ann E. "Universal Versus Islamic Human Rights…" Cit., p. 377. See also Baderin, Mashood A. *Op. Cit*, p. 17.

The celebration of the fiftieth anniversary of the UDHR in 1998 brought, once again, the issue of the "Westernness" of human rights discourse in the forum of public debate.[269] It is interesting to take notice, in this regard, of the debate that went on during the Harvard University symposium on the fiftieth anniversary of the Universal Declaration in 1998 between law Professor of the University of Buffalo Makau Mutua and the Chinese dissident Xiao Quiang. Professor Mutua described the Declaration as an arrogant attempt to universalize a particular set of ideas and to impose them upon three-quarters of the world's population, most of whom were not represented at its creation. Kenya-born Mutua said, "*Muslim, Hindus, African, non-Judeo-Christians, feminists, critical theorists, and other scholars of an inquiring bent of mind have exposed the Declaration's bias and exclusivity.*"[270] At the same symposium, however:

> Chinese dissident, Xiao Quiang, departed from his prepared remarks in order to respond to the charge that the Declaration was an arrogant attempt to impose 'Judeo-Christian' values on non-Westerner peoples. Xiao said he had often heard that argument in China – and Burma, and North Korea, and Indonesia. He agreed that human rights were a Western idea insofar as its origin was concerned. Communism, he noted, was a Western idea, too. But had Professor Mutua considered what a luxury it was to be able to voice his critical opinions on that subject freely? He asked. Turning to Mutua, he said, 'If you were to voice dissent from the prevailing view in China, you would end up in jail, and there you would soon be asking for your rights, without worrying about whether they were 'American' or 'Chinese'.[271]

If, on the one hand, the suggestion of sorting out human rights as specifically "Western" has come from the solicitations of governmental spokesmen and representatives from non-Western countries, on the other hand this same suggestion relates to the way this issue is perceived in the West itself. There is, in fact, a tendency both in Europe and in North America to assume, if only implicitly, that it is in the West -and only in the West- that human rights have been valued from ancient times. This allegedly unique feature of Western civilization has been, it is assumed, an alien concept in other parts of the world. By stressing regional and cultural specificities, these Western theories of the origin of human rights tend to

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[269] Sharma, Arvind. *Op. Cit.*, p. 221.
[270] Glendon, Mary A. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House, 2001, p. 224.
[271] Ivi, p. 232.

reinforce, rather inadvertently, the disputation of universal human rights in non-Western societies.[272]

The most prominent contemporary representative of an essentialist "Western" understanding of human rights has been Samuel Huntington, the prophet of the danger of a "clash of civilizations." In his global political map, human rights -as well as democracy, liberalism, and political secularism- belong exclusively to Western civilization. "*Differences in culture and religion create differences over policy issue*" such as the issue of human rights, according to Huntington. He is convinced that universalism of human rights is bound to fail. According to Huntington's thesis, the promotion of the universality of human rights by the West is counterproductive; it only spurs clashes between civilizations and backlash movements in nonwestern cultures[273]. For people from other civilizations, he underscores, the only way to have full access to human rights is to adopt essentially "Western" values and hence to implicitly convert to Western civilization.[274] It is also interesting to note Huntington's position about the incompatibility of human rights and Islam. His argument that there exists a monolithic Islamic culture that dictates attitudes on rights issues results from a reliance on Orientalist stereotypes.[275] Edward Said, the author of the critique of the Orientalist mindset, refers to this pejorative view of the "Orient," or more particularly, of the Middle Eastern and Islamic world. In the Orientalist perspective, the presentation of Islamic societies as unchanging, holistic entities is used pejoratively to suggest their incapacity to adopt ethically modern conceptions of universal human rights.

> Islam is a unitary phenomenon, unlike any other [Western] religion or civilization [...] [It is] monolithic, scornful of ordinary human experience, gross, reductive, unchanging [...] [For Orientalists] there are still such things as an Islamic society, an Arab mind, an Oriental psyche [...] "Arabs" are presented in the imagery of static, almost ideal types, and neither as creatures with a potential in the process of being realized nor as history being made.[276]

We could see extreme or absolutist cultural relativists as often presenting the inverse of Orientalism: not a pejorative picture of the societies they discuss but a

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[272] Sen, Amartya. "Universal Truths: Human Rights…" Cit., pp. 40-43.
[273] Mayer, Ann E. "Universal Versus Islamic Human Rights…" Cit., pp. 309-310.
[274] Huntington, Samuel P. *The Clash of Civilizations and the Remaking of World Order*. New York: Simon & Schuster, 1996, pp. 70-72.
[275] Mayer, Ann E. "Universal Versus Islamic Human Rights…" Cit., p. 320.
[276] Said, Edward W. *Orientalism.* New York: Vintage Books, 1978, pp. 296, 299, 301, 321.

complimentary, right-side-up, romanticized, and idealizing portrate. In so doing, however, they use the same idiom of unchanging monolithic societies unaffected by human history and development.[277] Moreover, they often attribute these characteristics to entire geographical regions or religions, as if a culture could be completely identified by its location or its religious beliefs. Edward Said comments on this tendency to attribute cultural characteristics to entire regions of the world:

> "The Orient" is itself a constituted entity [...] The notion that there are geographical spaces with indigenous, radically "different" inhabitants who can be defined on the basis of some religion, culture, or racial essence proper to that geographical space is [...] a highly debatable idea.[278]

Contrary to the static nature of cultural stereotypes the histories of different countries in the world have shown considerable variations over time as well as between different traditions within the same country.

Therefore, how much truth is there in this cultural dichotomy between Western and non-Western civilizations on the subject of liberty and human rights?

The support for open public discussion and tolerance for different points of view has a long history in many countries of the world. When, in the twelfth century, the Jewish philosopher Maimonides had to flee from an intolerant Europe to try to safeguard his right to stick to his own religious beliefs and practice, he sought shelter in Emperor Saladin's Egypt, and there he found an honored position in the court of this Muslim emperor.[279] Neither the claims in favor of the uniqueness of "Asian" or "Middle Eastern" values, nor the particular claims for the uniqueness of "Western values" can then survive much historical examination and critical scrutiny. Historic analysis indeed shows that human rights always have been a political issue, not the natural result of any "organic" development based on the "genes" of a particular culture. Moreover, as we remembered at the beginning of this chapter, we should pay attention at the particular hermeneutic standpoint from which we look at history. In seeing Western civilization as the natural habitat of individual freedom and human rights, there is a tendency to extrapolate backwards from the present standpoint. The concept of universal human rights in the broad general sense of

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[277] Howard, Rhoda E. "Cultural Absolutism and…" Cit., pp. 315-338.
[278] Said, Edward W. *Op. Cit.,* p. 322.
[279] Sen, Amartya. "Elements of a Theory…" Cit., p. 352.

entitlement of every human being is really a relatively new and modern idea, not to be found either in the ancient West or in ancient civilizations elsewhere.[280]

Even if we have been tackling some theoretical issues concerning cultural relativism and universal human rights, the controversy over these positions is not merely of theoretical interest; its political and social implications, especially in regard to international human rights, make it anything but theoretical.[281] Law Professor Douglas Donoho, in fact, stresses how cultural relativism in international human rights discourse makes its most considerable and significant claims when it addresses the meaning of human rights as expressed in their "specific content, interpretive meaning, and concrete application."[282] According to this account, the tension between relativism and universalism is most pronounced not at the level of consensus over general, abstract moral claims, but rather at the more specific level of what those claims actually require to governments.[283] According to Donoho, human rights have suffered from the paradox of being either so general that States interpret them in widely divergent and inconsistent ways or too specific to gain widespread acceptance.[284] The international consensus represented by the Universal Declaration of Human Rights and the International Human Rights Covenants, in the conditions of the modern world, support, according to Donnelly, a weak form of cultural relativism to human rights; that is, an approach that views human rights as *prima facie* universal, but recognizes cultures as a limited source of exceptions and as principles of interpretation and implementation of these rights.[285] While domestic implementation and enforcement of rights imply that each State has some discretion to interpret rights consistently with national cultures, traditions, and circumstances, these international treaties also compel governments to do so in ways which preserve the core values reflected in those rights.

Indeed, the international human rights system is sufficiently bound to the concepts of State sovereignty, consent, and independent national implementation of human rights standards as to allow for variations in the content and meaning of rights. Human rights scholar and activist Anne Bayefsky, by introducing the concept

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[280] Sen, Amartya. "Universal Truths: Human Rights…" Cit., pp. 40-43.
[281] Tilley, John J. "Cultural Relativism, Universalism…" Cit., p. 297.
[282] Donoho, Douglas L. "Relativism Versus Universalism in Human Rights: the Search for Meaningful Standards."*Stanford Journal of International Law*. 27.2 (1991), p. 368.
[283] Ivi, p. 367.
[284] Ivi, p. 369.
[285] Donnelly, Jack. "Cultural Relativism…" Cit., p. 416.

of "cultural sovereignty," wants to stress that the international efforts to protect human rights could be limited by the State's sovereign or superior authority to define the cultural needs of its citizens and the cultural parameters of their lives. According to Bayefsky, however, the real interest of the State protagonists is not protection of cultural identity but non-interference, supremacy, and control.[286] Cultural relativism, from this standpoint, has a vicious capacity to serve as the rhetorical justification for repressive practices by ruling élites. To the extent that cultural relativism leaves the precise content and meaning of human rights exclusively to State discretion, these rights have a strong tendency simply to imitate preexisting domestic law and practice. In this sense, cultural relativism could be seen as a conservative doctrine. This tendency to preserve the status quo, however, contrasts sharply with the original goals of eliminating governmental abuses of human beings and promoting an improvement in the human condition through concerted international efforts.[287]

The list of abstract human rights and general expressions of cross-cultural values cannot by itself meaningfully express human rights. Rather, only the specific content, interpretation, and application of a right can determine its meaning.

According to Reza Afshari, moreover, a detailed knowledge of events and of how rights are applied prevents us to give credence to a State's arguments rationalizing human rights violations based on cultural peculiarity and diversity.[288] Only by examining States' actual application of rights it is then possible to determine whether the international community has achieved a consensus with respect to a particular abstract moral claim.[289]

In conclusion, we should be able to develop specific requirements for human rights' claims which are capable of preserving the underlying morality without trampling unnecessarily on States' legitimate cultural and political needs.[290] What is needed, moreover, is a critical defense of universal human rights in a way that gives

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[286] Bayefsky, Anne F. "Cultural Sovereignty, Relativism…" Cit., p. 43.
[287] Donoho, Douglas L. *Op. Cit.*, p. 381.
[288] Afshari, Reza. *Op. Cit*, p. 7.
[289] Donoho, Douglas L. *Op. Cit.*, p. 381.
[290] Ivi, p. 388.

room for different cultural and religious interpretations and, at the same time, avoids the pitfalls of extreme or absolute cultural relativism.[291]

[291] Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights…" Cit., p. 92.

Chapter 2

The Rights of Religious Minorities

"Everyone has the right to freedom of thought, conscience, and religion; this right includes the right to change one's religion or belief, and freedom, either alone or in community with others or in public or in private, to manifest one's religion or belief in teaching, practice, worship, and observance."

Article 18, Universal Declaration of Human Rights

Once having addressed the theoretical problems related to the universality of human rights, the second chapter of the research tackles the specific category of rights pertaining to religious and belief minorities, with a particular focus on the Islamic legal tradition and the legislation of the Islamic Republic of Iran. It will be first analyzed how international law defines the rights of religious minorities, secondly how the Islamic tradition considers religious minorities, and finally how Iran conceives them in its legislation. These three stages of investigation are intertwined in our effort to define the case study of the research.

In order to thoroughly address the issues of freedom of religion and the rights of religious minorities, both at the international level and at the national level of the Islamic Republic of Iran, we will try to answer several different questions: What is a religious minority? Are there group rights? Which are the most important instruments that uphold the rights of religious minorities and the freedom of religion and belief in the international law? What is the stance of the Islamic tradition regarding religious minorities? What does the legislation of the Islamic Republic of Iran say about religious minorities and freedom of religion or belief?

Overall, the aim of the second chapter is to provide an overview about the international legal framework of the religious minority issue and to situate this issue within the national legislation of the Islamic Republic of Iran. How these two stages interact will be of particular interest and significance in the course of the interviews with representatives of Iranian religious minorities outlined in the fourth chapter.

1) Minority Rights, Religious Minorities, and Freedom of Religion

In the human rights context, particular protections are often developed for the relatively weak, poor, or powerless, who are not able to protect their own rights and interests through the exercise of their own political or economic strength.[1] One of the most basic principles of both early and contemporary human rights law is non-discrimination. The United Nations Charter identifies non-discrimination based on race, sex, language, or religion as the touchstone of all human rights. Furthermore, the Universal Declaration of Human Rights refers to equality or non-discrimination in many different Articles.[2] The two international Covenants of 1966 reiterate the prohibition of discrimination in identical terms in Articles 2 and 3. The principle of non-discrimination, however, should not be deemed inconsistent with the recognition that particularly vulnerable categories of people, like minorities, may need to be distinguished for protection by the international community.

Minority protection is an integral part of universal human rights, and it falls within the scope of international cooperation. Moreover, as stressed by the Norwegian human rights scholar Asbjørn Eide, promotion and protection of minority rights is a primary example where international cooperation is required; however, it could represent at the same time a difficult task for many governments. Governments, in fact, are affected by, and also often represent, the dominant groups in the society and their interests; what the international community demands from them is to ensure equality for all as well as the recognition and promotion of the identity of the weaker and politically less influential groups in society. The international mechanisms for cooperation in supervision and control have at times

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[1] Hannum, Hurst. "The Concept and Definition of Minorities" in Weller, Marc. *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, 2007, p. 49.
[2] See, for example, Article 1, 2, 6, 7, 10, 16, and 21.

met reluctance and opposition on the part of States, because these have seen such mechanisms as international interference in what, under the traditional international law of coexistence, was treated purely as a realm of internal affairs.[3] Governments have then remained hesitant in giving concrete shape to minority rights. We will address the case of Iran and how it deals with religious minorities in its constitution, its penal code, and its civil code later on in this chapter.

Nevertheless, as far as international human rights are concerned, a wide array of mechanisms protecting minority rights has been developed since the establishment of the United Nations.[4] The most important efforts concerning a definition of minorities and minority rights have been in fact undertaken by the United Nations and its different agencies and organizations since 1945. The main work has been done in setting standards and principles. This work (which will be discussed in the second section of this chapter) includes specific provisions in general human rights instruments, such as Article 27 of the International Covenant on Civil and Political Rights (ICCPR)[5], non-treaty instruments, such as the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (Minority Declaration) of 1992, and the activity of the Human Rights Council and its Human Rights Council Advisory Committee (the Advisory Committee)[6] since they all deal with minority issues.[7]

The category of minority rights according to international law generally refers to those human rights that offer specific protection to individual members of ethnic, national, religious, or linguistic minority groups or to the group as such. According to scholar Lauri Hannikainen, it is better to understand minority rights as a specific "sub-category" in the body of general human rights with the purpose of ensuring the *de facto* equality of minorities with the majority and/or the survival of minority

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[3] Eide, Asbjørn. "Mechanisms for Supervision and Remedial Action" in Weller, Marc. *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, 2007, p. 2.

[4] Weller, Marc. *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, 2007.

[5] Article 27 states that "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." International Covenant on Civil and Political Rights, accessed March 18, 2012, http://www2.ohchr.org/english/law/ccpr.htm

[6] They replaced in 2006 and 2007, respectively, the Human Rights Commission and its Sub-Commission on the Promotion and Protection of Human Rights.

[7] Condé, H V. *A Handbook on International Human Rights Terminology*. Lincoln: University of Nebraska Press, 2004, p. 163.

groups. In fact, if minority rights were understood as a category separate from, and additional to, general human rights, this would mean that persons belonging to minorities would have more human rights than other persons. Minority rights may contain supportive features, such as affirmative action or special protection to ensure *de facto* equality or even mild special rights to ensure the survival of a minority. However, since affirmative action and special rights may raise negative feelings towards minorities among the majority population, and they should be resorted to with caution, it is important to interpret all human rights provisions in a "minority-sensitive way ", in recognition of the interdependence of human rights.[8]

1.1) The Lack of an Official Definition of Minority

Despite the standards and the principles that have been developed and adopted by the international community concerning the protection of minorities, a commonly, officially, and universally accepted definition of "minority" at the international or regional level has not been reached yet.[9]

The Minority Declaration, for example, refers to "minorities" or "persons belonging to minorities" as the beneficiaries of the various rights but lacks any further clarification of these terms. Moreover, no legally binding international instrument contains a definition of "minority". Scholar Rianne Letschert points out two main reasons for the difficulty of reaching a generally accepted definition of "minority:" the first reason has to do with the complexity and difficulty to achieve consensus on the several characteristics that should form part of a definition; the second concerns the reluctance of States to recognize minorities and consequently their rights.[10] The Italian jurist Francesco Capotorti stated, in fact, that "*the preparation of a definition of minority capable of being universally accepted has always proved a task of such difficulty and complexity that neither the experts in this field nor the organs of the international agencies have been able to accomplish it to date*."[11] Moreover, according to scholar Hurst Hannum, the few minority rights

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[8] Hannikainen, Lauri. "Legal Nature of Minoritiy Rights as Part of Human Rights, Limitations, Derogations, Reservations, and Interpretative Statements" in Weller, Marc. *Op. Cit.*, p. 31.
[9] Letschert, Rianne M. *The Impact of Minority Rights Mechanisms*. The Hague: T.M.C. Asser, 2005, p. 5.
[10] Ivi, p. 30.
[11] Capotorti, Francesco. *Study on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities*, UN Doc. E/CN.4/Sub.2/384/Rev.1, 1979, para. 20.

instruments that have been adopted since 1945 might not have been agreed upon had it been necessary to first reach consensus on a particular definition.[12]

The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (renamed the Sub-Commission on the Promotion and Protection of Human Rights in 1999)[13] dealt with the issue of defining minorities at various stages in its history, and one of the most influential studies and definitions was concluded under the Sub-Commission's auspices. In 1971, in fact, the UN Sub-Commission asked special rapporteur Francesco Capotorti to undertake a study on the rights of minorities in which the issue of definition should also be addressed. In his *Study on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities*, Capotorti elaborated the definition of a minority as "*a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State- possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.*"[14] The proposed definition makes a distinction between objective and subjective criteria. Objective criteria could be, among others, nationality or citizenship of the State, residence on the territory of that State, a lasting presence, or even an ancient or historical presence, the fact of constituting or being part of a numerical minority of the population, speaking a language different from that of the majority, or having a distinct cultural heritage, traditions or religion. Subjective criteria, instead, concern the fact that minorities consider themselves as belonging to a minority.[15] Capotorti's definition was outlined in order to be consistent with the United Nations Covenant on Civil and Political Rights. It does not extend far beyond the limits designed by Article 27 of the Covenant and excludes various kinds of groups that might have otherwise been considered as legitimate minorities. His definition, for example, excludes aliens from its coverage by its limitation to

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[12] Hannum, Hurst. *Op. Cit.*, p. 57.
[13] The UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities was initially the main UN body that dealt with minority issues. In 1999, ECOSOC changed its title to Sub-Commission on the Promotion and Protection of Human Rights. The name was changed in recognition of the fact that, during its evolution over half a century, its tasks had increased far beyond its original mandate. Pursuant to General Assembly resolution 60/251 of 15 March 2006 entitled 'Human Rights Council', all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, including the Sub-Commission on the Promotion and Protection of Human Rights, were assumed by the Human Rights Council.
[14] Capotorti, Francesco. *Op. Cit.,* para. 568.
[15] Letschert, Rianne M. *Op. Cit.,* p. 30.

"nationals of the State." Thus, guest-workers, refugees, and immigrants are not covered. Capotorti noted that there is a need to safeguard the integrity of the State and to avoid separatism, but at the same time he observed as "*a matter for regret that concern to avoid weakening the integrity of the State or opening the door to separatist tendencies sometimes presents an obstacle to the adoption of special measures in favour of individuals belonging to minority groups.*"[16] Different scholars have advocated the idea of adopting a broader concept of minorities than the one proposed by Capotorti. In the Report on the Possible Ways and Means of Facilitating the Peaceful and Constructive Solution of Problems Involving Minorities, for example, Asbjørn Eide suggests that: "*A minority is any group of persons resident within a sovereign State which constitutes less than half the population of the national society and whose members share common characteristics of an ethnic, religious or linguistic nature that distinguishes them from the rest of the population.*"[17] This different view abandons the requirement of the necessity of a long and permanent stay on the territory of the State, which means that foreigners and migrant workers are also included in the definition. Furthermore, this definition also includes non-citizens.

According to scholar Gilbert Geoff, Capotorti definition of "minority" fails to accommodate the situation where a religious or ethnic group is larger than several other groups in the State, but is still mathematically non-dominant although wielding great influence in matters of State policy. Geoff makes the example of a State where the ethnic composition is as follows: group A-40%, group B-25%, group C-20%, group D-15%. In this situation, group A would be a numerical minority within the State, but it would be effectively dominant.[18] While Capotorti specifically limited his definition to the context of Article 27 of the ICCPR, which had come into force two years before the study was completed in 1978, his definition has remained the model for most of the definitions that followed.

In 1984, the Commission on Human Rights requested the Sub-Commission to explore again the issue of defining the term "minority." After surveying various

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16 Capotorti, Francesco. *Op. Cit.,* p. 98.
17 UN Sub-Commission on the Promotion and Protection of Human Rights, "Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities." Report submitted by Asbjorn Eide. 11 August 1993, E/CN.4/Sub.2/1993/34/Add.4, accessed 27 March, 2012, http://www.unhcr.org/refworld/docid/3b00efc528.html]
18 Geoff, Gilbert. "Religious Minorities and Their Rights: a Problem of Approach." *International Journal on Minority & Group Rights.* 5.2 (1997), pp. 104-105.

national and international precedents, Sub-Commission member Jules Deschênes submitted a definition to the Sub-Commission which did not differ substantially from the one proposed beforehand by Capotorti. According to Deschênes, in fact, a minority is "*a group of citizens of a State, constituting a numerical minority and in non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.*"[19] The Sub-Commission did not formally adopt or approve this definition, which was simply forwarded on to the Commission on Human Rights. In 1986, the Commission's Working Group on the Minorities Declaration decided to postpone further discussion of definitional questions and there is no definition included in the declaration as it was finally adopted in 1992.[20]

Another possible definition of "minority" is that proposed by Gaetano Pentassuglia, Professor of Law at the University of Liverpool. After a survey of the relevant texts, he comes to the conclusion that the different definitions of minority, even if they show slight differences, "*reflect the conviction that the term 'minority' means a group historically rooted in the territory of a State and whose specific ethno-cultural features (with the respective claims of protection) markedly distinguish it from the rest of the population of the State; the effect is also to 'orient' the permanent social and political links of its members with the State as manifested by citizenship.*"[21]

Overall, according to scholar Jay Sigler, however vague and imprecise the meaning of the term "minority," it is possible to strive for a commonsense definition that meets the ordinary expectations of the people. In its simplest form, we could regard a minority group as any category of people who can be identified by a sizeable segment of the population as objects for prejudice or discrimination or who, for reasons of deprivation, require the positive assistance of the State. Moreover, a persistent non dominant position of the group in political, social, and cultural matters could also be considered the common feature of the minority.[22] Overall, in

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[19] UN Sub-Commission on the Promotion and Protection of Human Rights, "Proposal concerning a definition of the term 'minority'." Submitted by Mr. Jules Deschênes, 14 May 1985, UN Doc. E/CN.4/Sub.2/1985/31, p. 30.
[20] Hannum, Hurst. *Op. Cit.*, p. 59.
[21] Pentassuglia, Gaetano. *Defining "minority" in International Law: A Critical Appraisal*. Rovaniemi: Lapland's University Press, 2000, p. 10.
[22] Sigler, Jay A. *Minority Rights: A Comparative Analysis*. Westport, Conn: Greenwood Press, 1983, p. 5.

international human rights discourse, "minority" is then usually used to describe a group of human beings classified, among other things, by their ethnicity, nationality, religion, or language within the context of a larger society in which they are in a non-dominant position. It could also refer to an individual member of such a group.[23]

It is worth noting that scholar John Packer questions the relevance of any of the adjectives normally associated in international law with the term "minority," such as ethnic, linguistic or religious, while there exists no definition of the term "minority" itself.[24] Nevertheless, such claim could be countered by suggesting that those adjectives at least attempt to describe those groups that are most exposed by their very nature to the danger of oppression and discrimination.

One question that has not being addressed by the different definitions that have been analyzed so far concerns who is supposed to define the minority: is it the group or the State? In reality, while the group must wish to assert its identity, it must satisfy objective criteria, for instance a numerical quantification, the presence of appointed representatives, the existence of designated gathering places. However, what should not be permissible is for the State to determine subjectively which groups do and which ones do not qualify as a minority. As it is stated in the Human Rights Committee General Comment No. 23 "*Some States parties who claim that they do not discriminate on grounds of ethnicity, language or religion wrongly contend, on that basis alone, that they have no minorities. [...] The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria*."[25] The existence of a minority is then a question of fact, not only of law.[26]

Further uncertainty concerns whether minority rights need only to be accorded to minorities that are considered "traditional" and "historical." Geoff suggests that such issues are particularly relevant in those contexts where minority groups assert national aspirations due to their "historical" and "traditional" presence on the territory of a given State. On the contrary, when a minority group claims only a

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[23] Condé, H V. *Op. Cit.*. pp. 162-163.
[24] Packer, John, and Kristian Myntti. *The Protection of Ethnic and Linguistic Minorities in Europe*. Turko/Åbo, Finland: Institute for Human Rights, Åbo Akademi University, 1993, p. 57.
[25] Human Rights Committee, General Comment No. 23, Article 27 on The Rights of Minorities, 50th Session (1994), UN Doc. CCPR/C/2 I/Rev. l/Add.5, 1994, paras. 4 and 5.2., accessed 26 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument
[26] Geoff, Gilbert. *Op. Cit.*, p. 102.

religious identity and the rights associated solely with this status –as in the case of the religious and belief minorities in the Islamic Republic of Iran- there is no need to consider them "traditional" or "historical," and the appropriate rights should be determined solely by the size and concentration of the group.[27] However, States are generally reluctant to extend the scope of identity rights to "new" minorities. According to Iranian human rights scholar Kamran Hashemi, during the debate in the Commission on Human Rights on the draft of Article 27 of the ICCPR, the phrase "*in those States in which ethnic, religious, or linguistic minorities exist*" was added to the draft article specifically to prevent recognition of "new" minorities.[28] Commenting on this amendment to Article 27, Capotorti claims that the purpose "*was to restrict the enjoyment of the rights recognized by the article to minorities already long established in the territory of the State, so as to prevent the protection conferred by the new rule from encouraging the formation of new minorities or awakening a 'minority consciousness' in groups formerly assimilated into the population of the State.*"[29] Hashemi highlights three possible explanations that could influence the stance of States towards religious minorities, especially in religious societies. First, the older established religious minorities are considered less of a threat for State security because they have already proven their loyalty to the central government. Secondly, the extraterritorial connections that "new" minorities normally maintain might intensify the tense situation between these groups and the State. Finally, the new religious groups are generally more active in proselytizing, which normally targets the members of the dominant religion.[30]

However, the hesitation of States to recognize religious minorities should not lead to ignoring the identity rights of minority groups, either "historical" or "new." As Capotorti states: "*In view of the general nature of the rules for the protection of human rights adopted within the framework of the UN, it is also inadmissible that a distinction could be made between "old" and "new" minorities. It is certainly not the function of Article 27 to encourage the formation of new minorities, where a minority exists, however, the Article is applicable to it, regardless of the date of its formation.*"[31]

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[27] Ivi, pp. 104-105.
[28] Hashemi, Kamran. Religious Legal Traditions, International Human Rights Law and Muslim States. Leiden: Martinus Nijhoff Publishers, 2008, p. 161.
[29] Capotorti, Francesco. *Op. Cit.,* p. 35.
[30] Hashemi, Kamran. *Op. Cit.,* p. 161.
[31] Capotorti, Francesco. *Op. Cit.,* p. 35.

Moreover, General Comment No. 23 of the Human Rights Committee (HRC),[32] which is the international monitoring organ of the ICCPR, avers that the term "*in which minority exist*" guarantees the extension of scope of Article 27 of the ICCPR to all the minorities existing in the territory of a State whether "new" or "old" and whether recognized or not.[33] General Comment 23 thus further extends the scope of identity rights embodied in Article 27 to those who have only been in the territory of a State for a short period and even to a temporary visitor to a country.[34]

1.2) The Lack of an Official Definition of Religion

Another important aspect that must be considered when dealing with minority rights and religious minorities is the internationally recognized principle of freedom of religion. However, as it has been the case for the term "minority," there is no universally accepted definition of "religion" in the field of human rights. None of the international instruments, not even the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, which is the most extensive exposition of the issue, provides a definition of religion, although Special Rapporteur Mrs. Odio Benito has proposed that all religions consist of "*an explanation of the meaning of life and how to live accordingly.*"[35] Religion is one aspect of human experience and activity that is extremely important and a key element or cause of human rights violations. A possible definition of religion identifies it in the orientation of the individual toward what he or she believes are the ultimate truths of reality, as well as the words and acts by which he or she externalizes those truths. Such definition includes both the internal beliefs, known as the *forum internum*, and the *forum externum*, where one manifests religion.[36] Freedom of religion is usually considered in human rights treaties along with freedom of thought, conscience, opinion, and belief. As a human rights norm, its protection is found principally in the following human rights instruments, that will

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[32] HRC is composed of 18 experts who sit in their personal capacity.
[33] Human Rights Committee, General Comment No. 23, Art. 27 on The Rights of Minorities, 50th Session (1994), UN Doc. CCPR/C/2 I/Rev. l/Add.5, 1994, para. 5.2., accessed 26 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument
[34] Ivi, para. 6.2.
[35] Benito, Odio. *Study of the Current Dimensions of the Problems of Intolerance and of Discrimination on Grounds of Religion or Belief*, E/CN.4/Sub.2/1987/26, para. 19.
[36] Condé, H V. *Op. Cit.,* p. 224.

be discussed in paragraph 2 of this chapter: UDHR, article 18, ICCPR, article 18, and the 1981 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

Notwithstanding the basic lack of a definition of religion, the most important practical issue is the recognition of religious groups performed by the State. Recognition, possibly through registration with some State body, normally gives legal personality to the religious group, rather than simply allowing it freedom of worship. Without this recognition, a religious group may not formally be able to regulate its own affairs in terms of its finances, its holding of property, and the status of its members. Moreover, the religious minority should also be able to establish its religious institutions.[37] Capotorti notes that "*what must be emphasized is the fact that international protection of minorities does depend on official recognition of their existence […] in practice, the recognition of a minority by the State in which it lives improves this situation, facilitates the application of the principles enunciated in Article 27 of the Covenant and gives the members of the minority a solid base for effective protection of the rights guaranteed them at the international level.*"[38]

The specifically religious factor, however, could be hard to isolate from the social, political, and ethnic context.[39] In a long process on interaction, belief characteristics have been combined with other elements such as ethnicity, custom, national, and cultural characteristics of their followers and societies.[40] It is difficult, then, to draw a dividing line between different types of minorities. A religious minority, in fact, may at the same time be equally regarded as an ethnic, a national, and/or a linguistic minority.[41]

Taking into consideration all these different theoretical contributions regarding the definition of "minority" and "religion", for the purpose of this research, a religious or belief minority will be considered a group of human beings classified, among other things, by their religious belief, within the context of a larger society in which they are in a non-dominant position. The term minority could also refer to an individual member of such a group.

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[37] Geoff, Gilbert. *Op. Cit.,* p. 111.
[38] Capotorti, Francesco. *Op. Cit.,* p. 12.
[39] Roland, Oliver. "Introduction: The Minority Rights Group: What's in a Name?" in Whitaker, Ben. *Minorities, a Question of Human Rights?* Oxford: Pergamon Press, 1984, p. 3.
[40] Hashemi, Kamran. *Op. Cit.,* p. 166.
[41] Ivi, pp. 147-148.

On the whole, given how complex it is to define "minority" and "religion" as well as who is entitled to define a minority group or which characteristics a minority group should possess, it is hardly surprising that determining the rights religious minorities might need is equally complex.[42] To examine the "rights of religious minorities" involves a multi-threaded analysis: some minorities are only interested in their religious identity and its preservation; other religious minorities require a broader range of rights because they perceive their group as a national or ethnic minority where religion is but one distinguishing feature; finally, when examining "religious rights" of minorities, one is often looking at guarantees that will adhere to religious majorities and even individuals.[43] It must be noted that the rights associated with the religious minorities have a dual character. There is an individual, internal or private nature which allows members of the minority group to hold whatever belief they wish. Alongside that, there are the rights of the members of the group as a whole. It is therefore worth asking whether the rights accorded to the minority groups should be considered as collective, or rather as individual human rights available solely to the individual members of such groups.

1.3) Minority rights: Individual or Group Rights?

The question of whether "minority rights" are essentially group rights or individual rights is of theoretical interest: the practical implications of the debate, however, are rather difficult to discern.[44] Minority rights can be conceived either as individual rights or as collective rights pertaining to the group as a whole. Traditionally, international law has held that minority rights belonged only to the members of the group. This is in line with how Article 27 of the ICCPR has been drafted:

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

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[42] Geoff, Gilbert. *Op. Cit.,* p. 102.
[43] Ivi, p. 99.
[44] Hannum, Hurst. *Op. Cit.*, p. 69.

members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.[45]

While "persons belonging" can in an impersonal sense be conceived as representing the group itself, the fact that they are to enjoy the right 'in community with the other members of their group' suggests that Article 27 is limited to individual rights. However, other international guarantees are open to the interpretation of the "collective" option. Article 1(1) of the 1992 Minority Declaration, in the light of which all the other provisions in the Declaration ought to be interpreted, reads as follows:

> States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.[46]

Human rights doctrines are based on the idea of the inherent dignity and equality of all individuals. The concept of group rights, on the contrary, seems to suggest the treatment of individuals as mere carriers of group identities and objectives, rather than as autonomous personalities capable of defining their own identity and goals in life. According to this interpretation, the concept of group rights would subordinate the individual's freedom to the group's claim to protect its historical traditions or cultural purity.[47]

Canadian philosopher Will Kymlicka, however, claims that this view of group rights is overstated and distinguishes among two different kinds of group rights: the "good" and the "bad" group rights. The "good" or positive group rights are those that supplement and strengthen human rights, by responding to potential injustices that traditional rights doctrine is not able to address. These rights involve the claim of a minority group against the larger society. There are cases, however, where groups seek the right to restrict the basic liberties and human rights of their members. These are the "bad" group rights. In some cases, these practices are not only bad, but

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[45] Article 27, International Covenant on Civil and Political Rights, accessed March 18, 2012, http://www2.ohchr.org/english/law/ccpr.htm

[46] Article 1, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, accessed March 18, 2012, http://www2.ohchr.org/english/law/minorities.htm

[47] Kymlicka, Will. "The Good, the Bad, and the Intolerable: Minority Group Rights." *Dissent*. 43.3 (1996): 22-30.

intolerable. In these cases, according to Kymlicka, the larger society has a right to intervene to stop them.[48]

Both of these kinds of group rights can be seen as protecting the stability of minority groups: it is important noting, however, how they attain two different kinds of stability. The "good" group rights are intended to protect the minority group from the impact of external decisions –economic or political policies, for example- potentially harmful, whereas the "bad" group rights are intended to protect a minority group from the destabilizing impact of internal dissent of individual members who decide to stop following not to follow traditional practices or customs. Kymlicka further labels these different practices as "external protections" and "internal restrictions," respectively.[49] Both are "group rights," but they raise very different issues.

"Bad" group human rights or internal restrictions, in fact, involve intra-group relations. A group may seek the use of State power to restrict the liberty of its own members in the name of group solidarity. For example, a government might discriminate against those members who do not share the traditional religion. This sort of internal restriction raises the danger of individual oppression. Group rights in this sense can also be invoked by patriarchal and theocratic regimes and cultures to justify the oppression of women and the legal enforcement of religious orthodoxy. Whereas groups are free to require respect for traditional norms and authorities as conditions of membership in private, voluntary associations -e.g. a religious organization can insist that its members be religious in good standing- the problem arises when a group seeks to use governmental, institutional power, or the distribution of public benefits to restrict the liberty of its members.

"Good" group human rights or external protections, by contrast, involve inter-group relations. In these cases, the minority group seeks to protect its distinct existence and identity by limiting its vulnerability to the decisions of the larger society. Of course, there have been circumstances where the sorts of external protections demanded by a minority group are unfair. Under the apartheid system in South Africa, for example, whites, who constituted less than 20 percent of the population, demanded 87 percent of the land mass of the country, monopolized all

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[48] Ivi, p. 26.
[49] Ivi, p. 28.

the political power, and imposed the Afrikaans and English languages throughout the entire school system. "*They defended this in the name of reducing their vulnerability to the decisions of other larger groups, although the real aim was to dominate and exploit these groups.*"[50] However, the sorts of external protections sought by minority groups hardly put them in a position to dominate others. Rather, minority groups simply seek to ensure that the majority cannot use its superior numbers or wealth to deprive them of the vital human rights, resources, and institutions necessary to the reproduction of their communities.[51] So, whereas internal restrictions are almost inherently in conflict with human rights principles, external protections are not, so long as they promote equality between groups rather than allowing one group to oppress another. Under such circumstances, there is no conflict between external protections and individual rights. Groups that enjoy these external protections may fully respect the civil and political rights of their own members.[52]

2) The Rights of Religious Minorities and Freedom of Religion in International Law

An embryonic system of international protection of minorities was introduced, under the control of the League of Nations and the Permanent Court of Justice, after World War I. The League of Nations was the first international organization to adopt international rules and procedures for monitoring minority rights.[53] According to Rianne M. Letschert, the minorities system of the League of Nations was mainly created to protect and ensure the autonomy of minority groups in East and Southeast Europe.[54] The system of the League then provided for a right of "friendly interference" by outside powers in the internal affairs of their neighbors in Eastern

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[50] Ivi, pp 29-30.

[51] Ibidem.

[52] For a complete explanation of this theory see Kymlicka, Will. *The Rights of Minority Cultures*. Oxford: Oxford University Press, 1995.

[53] Roach, Steven C. *Cultural Autonomy, Minority Rights, and Globalization*. Burlington, VT: Ashgate, 2005, p. 34.

[54] The 12th point mentioned by United States President Woodrow Wilson in his Fourteenth Points speech is of particular relevance here: "The Turkish portion of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development (…)." See Bolling, John R. *Chronology of Woodrow Wilson: Together with His Most Notable Addresses, a Brief Description of the League of Nations, and the League of Nations Covenant*. New York: Frederick A. Stokes Co, 1927, p. 257.

Europe.[55] However, the League failed to implement a permanent program of minority rights capable of resolving disputes between and among minority groups and States. The League generally clung to the idea that the principle of State sovereignty constituted a sacrosanct and absolute principle of international law. In this way, the League's interest in autonomy and minority rights protection remained strictly subordinate to the principle of State sovereignty.[56]

From the beginning, the minority system of the League attracted a great deal of criticism. On the one hand, minorities and their advocates regretted their exclusion from direct access to the League; on the other hand, States falling under the treaty regime were not at all pleased with this infringement of their sovereignty, nor with the fact that the major powers (France, Great Britain, and the United States) refused to develop a universal system of minority rights. By 1939, the minority system had almost ceased to function and ultimately the League of Nations system itself collapsed with the outbreak of World War II. The League of Nations system tried to protect not only individual rights of persons belonging to minorities, but also their group rights to live as cultural, religious, and linguistic entities.[57]

After World War II, the founding States of the UN were initially reluctant with regard to minority rights. Some thought these could be protected through individual rights. There were also fears that protection and promotion of separate minority identities could hamper the effort to ensure equality for all on an individual basis, and that it could lead to internal conflict and tensions. Even though the United Nations renounced the notion of group rights and instead chose for the broader category of individual human rights, the UN was never completely indifferent to the minority question. Asbjørn Eide stresses how the "*uneasiness about the plight of minorities was sufficiently strong to make the United Nations General Assembly state that it could not remain indifferent to their fate.*"[58] At its first session in 1947, the Commission on Human Rights appointed the special Sub-Commission on Prevention of Discrimination and Protection of Minorities entrusted with the task, among others, to make recommendations to the Commission concerning the prevention of

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[55] Letschert, Rianne M. *Op. Cit.,* p. 11.
[56] Roach, Steven C. *Op. Cit.,* p. 14.
[57] Letschert, Rianne M. *Op. Cit.*, p. 11.
[58] Eide, Asbjørn. *Op. Cit.*, p. 6.

discrimination of any kind relating to human rights and fundamental freedoms and to the protection of national, religious, and linguistic minorities.

2.1) Non-Discrimination and Equality Principles

The protection against discrimination is one of the most important safeguards for religious minorities in the enjoyment of their religious rights. As stressed by human rights expert Zdenka Machnyikova, the most effective protection from the perspective of freedom of thought, conscience, and religion of religious minorities has been provided through upholding the non-discrimination and full equality principles.[59] At the same time, Muslim legal scholar Abdullahi Ahmed An-Na´im points out that the general principle of the rights of members of religious minorities is first to be found in the guarantee against discrimination on grounds of religion or faith. *"All the relevant international human rights documents and national constitutions consistently and explicitly provide for this fundamental principle."*[60]

Article 55(c) of the United Nations Charter commits the United Nations to promote *"universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."*[61] Moreover, all members of the United Nations pledge themselves by virtue of Article 56 of the Charter *"to take joint and separate action in cooperation with the Organization [UN] for the achievement of the purposes set forth in Article 55."*[62] The first major action taken in fulfillment of this pledge, as it has been seen in the first chapter of this research, was the adoption of the Universal Declaration of Human Rights on December 10th, 1948. Article 2 of the Universal Declaration reiterates the principle expressed in Article 55(c) of the UN Charter, stressing how rights and freedoms belong to every human being *"without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a*

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[59] Machnyikova, Zdenka. "Religious Rights" in Weller, Marc. *Op. Cit.,* p. 202.
[60] An-Na´im Abdullahi Ahmed, "Religious Minorities Under Islamic Law and the Limits of Cultural Relativism." *Human Rights Quarterly.* 9.1 (1987), pp. 7-8.
[61] Article 55(c), the United Nations Charter, accessed 2 April, 2012, See http://www.un.org/en/documents/charter/chapter9.shtml
[62] Ibidem.

person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."[63]

The Universal Declaration's extensive catalog of fundamental human rights is subject to the general limitations allowed by Articles 29 and 30 which are, nevertheless, consistent with the principle of nondiscrimination. Article 29(2) permits only those "*limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.*"[64] More significant for our purposes is the text of Article 30 which states that "*nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.*"[65]

In order to reinforce the moral and political impact of the Universal Declaration, the General Assembly of the United Nations has adopted several treaties, including the 1966 Covenants on Economic, Social, and Cultural Rights (ICESCR) as well as that on Civil and Political Rights (ICCPR). In the ICCPR, Article 2(1) forbids distinctions on the basis of religion; Article 24(1) forbids discrimination as to religion and Article 26 covers equality before the law and equal protection of the law without discrimination. Articles 2(2) and 13(1) of the ICESCR also raise the issue of non-discrimination on the basis of religion with respect to the guarantee of the rights in that Covenant and to education, respectively. All States are committed under these provisions to non-discrimination policies towards all persons on their territory and subject to their jurisdiction on ground such as "race, colour, sex, language, and religion."[66]

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[63] Article 2, Universal Declaration of Human Rights, accessed 2 April, 2012, See http://www.un.org/en/documents/udhr/
[64] Ibidem.
[65] Ibidem.
[66] Hashemi, Kamran. *Op. Cit.,* p. 169.

2.2) Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights

A general source of the rights of members of religious minorities is to be found in Article 18 of the Universal Declaration of Human Rights, which guarantees the right to everyone to adopt and change his or her own religious belief without fear of government interference:

> Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The rights expressed in Article 18 of the UDHR were later articulated in the legally binding Article 18 of the International Covenant on Civil and Political Rights.[67] In this more detailed formulation the right "*include[s] freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching*." The same Article also provides that "*no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice*."[68]

Although it is recognized that the acknowledgment of freedom from coercion is essentially directed against the States' attempts to influence choice of religion or decisions to maintain a particular religion, Machnyikova points out how the expressed right to freedom from coercion has been included during the drafting process of Article 18(2) ICCPR as the reflection of fears expressed by some Muslim countries seeking protection against missionary activities and proselytism. They tried to shift the emphasis in the Article away from freedom to change religion toward the freedom to maintain religion.[69] These States raised objections, claiming that their domestic laws are based on the religious laws prohibiting conversion from Islam.[70] As a result, Article 18(2) ICCPR has a different formulation guaranteeing the

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[67] An-Naim Abdullahi Ahmed, *Op. Cit.,* p. 6.
[68] Article 18, International Covenant on Civil and Political Rights, accessed 23 March, 2012, http://www2.ohchr.org/english/law/ccpr.htm
[69] Machnyikova, Zdenka. Op. Cit., p. 182.
[70] Third Committee debates on the ICCPR, UN Doc. A/C.3/5/SR. (1050-1), 288-367, UN Doc. A/C.3/15/SR (1960), 1021-6.

right to have or to adopt a religion in comparison with Article 18 of the UDHR, which protects the right to change religion or belief. Despite the fact that changes to Article 18(2) were introduced to oppose any influences directed at the change of a religion and to ensure the right to maintain a religion, the Human Rights Committee, the international monitoring organ of the ICCPR, in its General Comment No. 22 to Article 18 of the ICCPR has explicitly interpreted the freedom to have or to adopt a religion or belief as containing "*the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief.*"[71]

From the perspective of religious minorities, in particular those whose beliefs are less known, new or non-traditional, the issue of what is considered to be protected "belief" or "profession of religion" plays an important role. As it has already been seen above, the provisions of the international standards do not define the term "religion." In the practices of States, therefore, as well as the international supervisory bodies, religion and belief are broadly connoted. The HRC in General Comment No. 22 on Article 18 of the ICCPR indicated that "*the article protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The term belief and religion are to be broadly constructed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.*"[72] Furthermore, the Committee specifically condemned any tendency "*to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be subject of hostility by a predominant religious community.*"[73]

Finally, the HRC in General Comment No. 22 stated that the fact that a religion is recognized as a State religion, or that its followers comprise a majority of the population shall not result in any privileges for this religion or discrimination against adherents to other religions or non-believers. With respect to education, the HRC has more specifically stressed that non-discriminatory exemptions or

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[71] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 5, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15
[72] Ivi, para. 35.
[73] Ibidem.

alternatives must be made in public education systems where the curriculum includes instruction in a certain religion.[74]

2.3) Article 27 of the International Covenant on Civil and Political Rights

Specific provisions directed at the protection of persons belonging to national, ethnic, and religious minorities were included in the Article 27 of the ICCPR.[75] Article 27 of the Covenant configures minority rights as follows:

> 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.[76]

Thus, Article 27 outlines three human-minority rights: enjoyment of the culture, profession and practice of the religion, and use of the language.[77] Article 27 remains the only obligatory norm on the preservation of the characteristics of religious minorities within the international human rights system.[78] For this reason, Article 27 could be considered as the primary provision guaranteeing protection by the UN to persons belonging to minorities.

Most of the rights in the ICCPR are formulated in a positive way. Article 27, however, confers rights in a negative way: "*minorities shall not be denied the right.*" The fact that the article uses these words convinced some States that governments were not obliged to take positive measures.[79] This reflects, as it has already been mentioned above, the hesitant attitude of States towards the protection of minorities. Letschert provocatively argues that the position of States could be seen as if they did not want to be under an obligation to promote minority rights. The insertion of the words "*in those States in which […] minorities exist*" also demonstrates this hesitant and negative attitude because it enabled States to declare that they have no minorities on their territory and then do not need to grant them

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[74] Ivi, paras. 9 and 10.
[75] Machnyikova, Zdenka. Op. Cit., p. 182.
[76] Article 27, International Covenant on Civil and Political Rights, accessed March 18, 2012, http://www2.ohchr.org/english/law/ccpr.htm
[77] Hannikainen, Lauri. *Op. Cit.*, p. 27.
[78] Hashemi, Kamran. *Op. Cit.,* pp. 147-148.
[79] Capotorti, Francesco. *Op. Cit.,*p. 98, para. 587.

any rights. Moreover, Article 27 does not specify in what way States should ensure that members of minorities can exercise the rights mentioned.[80]

Given the vagueness of Article 27, the Human Rights Committee has had an important role to play in further clarifying the scope and application of Article 27. The HRC in 1994 recognized the existence of positive State obligations in General Comment No. 23 on Article 27. It notes that "*positive measures of protection are [...] required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party*."[81]

On March 23rd, 1976, the Optional Protocol to the ICCPR entered into force, and it provided the HRC with the competence to examine individual complaints. According to the Optional Protocol, persons who consider that their rights under the Covenant have been violated are entitled to submit a written communication (complaint) to the Committee after they have exhausted all the domestic remedies, and the violations have not got redressed before national authorities. The Committee first decides whether claims are admissible and consequently adopts its "views" as to whether there is a violation of rights. The opinions of the Human Rights Committee certainly deserve serious consideration, even though the Committee is not given the authority under the Covenant to interpret its provisions in a manner that is legally binding on States.[82] However, the Committee has recognized the legal character of the rights included in Article 27 in many of its reports on complaints referring to such Article. Moreover, the implementation of the Committee's views is entrusted to a special rapporteur whose task is to meet with State representatives and ensure follow-ups.[83]

2.4) The Right to Manifest One's Religion or Belief

The right to freedom of thought, conscience, and religion, referred to as *forum internum*, implies a broad catalogue of rights within the different international

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[80] Letschert, Rianne M. *Op. Cit.,* p.129.

[81] Human Rights Committee, General Comment No. 23, Art. 27 on The Rights of Minorities, 50th Session (1994), UN Doc. CCPR/C/2 I/Rev. l/Add.5, 1994, para. 6.1., accessed 26 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument

[82] Hannum, Hurst. *Op. Cit.*, p. 61.

[83] Letschert, Rianne M. *Op. Cit.,* pp. 127-128.

instruments. As it has been seen above, it implies the freedom to choose a particular religion and to maintain adherence to a religion, as well as the right to change religious belief at any time. The protection is guaranteed equally to the right to profess religion, as well as the choice not to profess religion, to have a particular religious belief, but equally to have non-theistic views. Under ICCPR provisions, States must refrain from interfering with the *forum internum*. This is important from the perspective of religious minorities since States are precluded from practices aimed at forced assimilation of minorities. Accordingly, individuals as well as religious communities are protected against indoctrination and other forms of coercion.[84] Any person can hold any internalized belief that he or she chooses. However, freedom of religion guarantees that persons can publicly declare their religion and that they can come together with other adherents of the same faith or belief. In practice, freedom of religion includes worshipping or practicing together with other adherents. Thus, the individual human right to freedom of religion provides the religious minority with many aspects of the rights it needs as a group in terms of the manifestation of that religion.[85]

The provisions of the UDHR and the ICCPR guaranteeing the human right to manifest one's religion or belief establish that individuals have the right either individually or in community with others, and in public or private, to manifest their religion in "worship, observance, practice, and teaching." However, what exactly these different practices constitute is not defined in these provisions. An attempt to provide some guidance has been made in General Comment No. 22 on Article 18 of the ICCPR, which has given an indicative list of acts constituting worship, observance, and practice. Comment No. 22 identifies as part of worship those "*rituals and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holydays and days of rest.*"[86] Furthermore, observance and practice may also include, besides ceremonial acts, such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a

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[84] Machnyikova, Zdenka. *Op. Cit.,* p. 182.
[85] Ivi, p. 184.
[86] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 4, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15

group. Under the practice, the Comment further includes activities that are integral to the conduct by religious groups of their basic affairs, such as religious teaching, the freedom to choose their religious leaders, clergy, and teachers, the freedom to establish seminaries or religious schools, and the freedom to prepare and distribute religious texts or publications.[87]

The most detailed and comprehensive articulation of the forms of manifestation has been provided so far by the Article 6 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (such Declaration will be analyzed thoroughly in the next section).[88] According to this Article, the manifestation of a religion or a belief includes

"[t]he freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes; to establish and maintain appropriate charitable or humanitarian institutions; to make, acquire, and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief; to write, issue, and disseminate relevant publications in these areas; to teach a religion or belief in places suitable for these purposes; to solicit and receive voluntary financial and other contributions from individuals and institutions; to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion of belief; to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels."[89]

In comparison with the *forum internum*, however, the manifestation of one's religion or belief is not unlimited. During a public emergency, a State may, under Article 4 of the ICCPR, derogate from a number of its human rights obligations, but not from all of them. The term "derogation" means that a State can limit human rights during public emergency, thus derogating from its human rights obligations. In emergency circumstances, international supervisory bodies may temporarily excuse a State from a number of its human rights obligations for the purpose of restoring and maintaining order. Nevertheless, as specified by Article 18(3) of the ICCPR, any limitations must be "prescribed by law" and must pursue the interests of

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[87] Ibidem.
[88] Machnyikova, Zdenka. *Op. Cit.,* p. 188.
[89] Article 6, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, accessed 29 March, 2012, http://www2.ohchr.org/english/law/religion.htm

public safety, the protection of public order, health or morals, or the protection of the rights and freedoms of others. The Human Rights Committee stressed in its General Comment regarding Article 18(3) that it "*should be interpreted in strict terms: restrictions are not allowed on grounds different from those specified in the paragraph [...] Limitations may be applied only for their specific purposes and must be directly related and proportionate to the specific need on which they are predicted. They should not involve discriminatory purposes or be applied in a discriminatory manner. The freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education cannot be restricted.*"

From this description it is clear that no limitations are acceptable to "having" a religion or belief and that this *forum internum* is absolute; therefore, only "manifesting" that religion or belief in "worship, observance, practice, and teaching" -the *forum externum*- can be restricted. The burden of proof is on States to demonstrate that a limitation imposed complies with the requirements of paragraph 3. The regulation and administration of derogations shall contribute to early resolution of the crisis. When the actual crisis is solved, the derogations must be terminated and human rights be restored completely. There is, in fact, a list of human rights that cannot be subjected to derogations even during public emergencies. The minority rights included in Article 27 of the ICCPR, however, are not on the list of these rights. When in 2001 the Human Rights Committee adopted its General Comment No. 29 on the interpretation of Article 4 of the ICCPR, it extended, through its interpretation, the list of non-derogable rights but did not include minority rights in its list.[90] Article 4(1) of the ICCPR spells out the criteria for derogation as follows:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

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[90] Human Rights Committee, General Comment No. 29, Article 4 on States of Emergency, 1950th meeting (2001), UN Doc. CCPR/C/21/Rev.1/Add.11, accessed 3 April, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/71eba4be3974b4f7c1256ae200517361/$FILE/G0144470.pdf

In the quoted provision, the stipulation concerning discrimination is relevant as far as ethnic, linguistic, and religious minorities are concerned; in fact, it vests in minorities and in persons belonging to them a minimum protection. In Article 4(2) on non-derogable human rights, of particular relevance are Article 16 according to which everyone should have the right to recognition everywhere as a person before the law, and Article 18 which, as it has been seen above, recognizes the right of everyone to freedom of thought, conscience, and religion.[91]

Which rights are to be deemed exactly "necessary to protect public safety, order, health or morals" of others? In what circumstances and through what means?[92]

From the perspective of minority protection and permissible limitations, careful attention should be paid when the State's interference concerns grounds of legitimate public interest. Of special importance to religious minorities is the ground invoked for the protection of morals. In countries with a State religion or traditional religion the concept of public morals is usually and predominantly based on the belief system of this religion. Different beliefs and traditions, however, are the distinguishing characteristic of religious minorities, and in this respect their moral precepts can be quite different from those of the majority of the population following the State or the traditional religion. In this respect the HRC noted in General Comment No. 22 that "*limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.*"[93]

As Machnyikova reminds us, one aspect of the freedom of religion which is extremely important for religious minorities is the right of parents to have their children educated in accordance with their religious and moral convictions. Such education is often connected with the transmission of religious, moral, and other philosophical ideas. The right is guaranteed in a number of international instruments. Parents' entitlement to have their children educated according to their own religious and philosophical convictions is covered, for example, in Article 26(3)

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[91] Hannikainen, Lauri. *Op. Cit.*, p. 45.
[92] Ghanea-Hercock, Nazila. *The Challenge of Religious Discrimination at the Dawn of the New Millennium*. Leiden: Martinus Nijhoff Publishers, 2003, p. 15.
[93] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 8, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15

of the UDHR, providing for the right of persons to choose the kind of education that they want for their children, including opting for private education. A more specific guarantee of the parental choice to have their children educated in accordance with their religious and moral convictions is guaranteed by Article 18(4) of the ICCPR and Article 14(2) of the Convention on the Rights of the Child. Even if the right of parents to have their children educated in accordance with their beliefs does not impose positive obligations on States to provide religious education in accordance with the wishes or choices of parents, or to provide funding for private education, and it does not guarantee State support for such education, nevertheless it may require to recognize a privately established school.[94] In respect of the State's discretion to establish general curricula, General Comment No. 22 on Article 18 ICCPR has clearly stated that "*instruction in a particular religion or belief is inconsistent with article 18(4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.*"[95] This statement is of great importance for minorities as far as there are many States that provide religious education based on the dominant or majority religion in the public education system. In States where public schools have religious instruction, especially if such instruction is rooted in the religious beliefs of a dominant State religion, or the religion of the majority, parents have the right to withdraw their children from such classes.[96]

Another important issue that arises with respect to religious minorities concerning the protected forms of manifestation is the issue of "proselytism" and "missionary work". There are major differences in the attitude of States towards the acceptance of proselytism: some of the States with an established official religion and with religious law being part of the political system treat a change of religion as apostasy, and are strongly opposed to any activities promoting minority religions or other alternatives to the State religion.[97] However, the international supervisory bodies endorsed proselytism as a protected form of manifestation of religion and belief. Imposition of the State restrictions on proselytism was rejected at the universal level by the HRC General Comment No. 22, which permits missionary work

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[94] Machnyikova, Zdenka. *Op. Cit.,* p. 197.
[95] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 45, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15
[96] Machnyikova, Zdenka. *Op. Cit.*, p. 197.
[97] Ivi, p. 189.

and addresses coercion only in terms of restricting an access to education, medical care, and employment. The prohibition of coercion is directed essentially at the protection of individuals against legal barriers imposed by States to a change of religion.[98] Nevertheless, at the same time, given the history of religious intolerance and religious wars, international law, in particular through Article 20 of ICCPR, has tried to impose a restriction on all forms of religious expression and activities constituting advocacy of religious hatred and incitement to religious intolerance, and it requires the State parties to prohibit such activities by law.

As described above, Article 27 of the ICCPR recognizes the rights of religious minorities to "profess and practice their own religion." Moreover, the Human Rights Committee's General Comment on Article 27 confirms that Article 27 provides that ethnic, religious, and linguistic minorities should not be denied the right "*in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.*"[99] It is then the collective dimension recognized by Article 27, in association with the rights of Article 18 of both the UDHR and the ICCPR, that offers a promising overlap for the protection and promotion of minorities discriminated on the grounds of religion or belief.[100]

Two other important international instruments for the protection and promotion of minorities must also be considered: the Declaration on the Elimination of all Forms of Intolerance and Discrimination based on Religion and Belief and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities.

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[98] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 5, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15

[99] Human Rights Committee, General Comment No. 23, Art. 27 on The Rights of Minorities, 50th Session (1994), UN Doc. CCPR/C/2 I/Rev. l/Add.5, 1994, para. 1, accessed 26 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument

[100] Ghanea-Hercock, Nazila. *Op. Cit.,* p. 26.

2.5) Declaration on the Elimination of all Forms of Intolerance and Discrimination based on Religion and Belief

Through resolution 1510 (XV) of December 12th, 1960, which condemned "*all manifestations and practices of racial, religious, and national hatred in the political, economic, social, educational, and cultural spheres of the life of society*" as violations of the UN Charter and the Universal Declaration of Human Rights, the General Assembly (GA) proved to be concerned with both racial and religious hatred.[101]

However, according to human rights expert and Professor Nazila Ghanea-Hercock, an "enduring rupture" occurred between the international concern with race and religion when the drafting of a legal instrument on racial discrimination came to be prioritized over that on religion.[102] This led to the adoption of the Declaration on the Elimination of All Forms of Racial Discrimination in 1963[103] and the subsequent adoption of the International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD) in 1966. After the approval of the ICERD, the GA requested both a draft declaration and a draft convention on religious intolerance. The slow pace of its progress, however, drove the GA in 1972 to give priority to the formulation of a Draft Declaration on Religious Discrimination. Discussion on a Convention was thus postponed indefinitely. It took nine further years, until March 10th, 1981, for the UN Commission on Human Rights to complete a draft. This draft was adopted by a vote of 33 to 0, with 5 abstentions at the Commission on Human Rights and a vote of 45 to 0, with 6 abstentions, at the Economic and Social Council. The Third Committee of the GA adopted the revised text of the draft Declaration by consensus on November 9th, 1981. The GA itself then finally adopted the Declaration on the Elimination of all Forms of Intolerance and Discrimination based on Religion and Belief (Religious Declaration) without a vote at its 73rd plenary meeting of November 25th, 1981. It is evident, according to Ghanea-Hercock, that the 19 years taken to draft and adopt the Religious

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[101] General Assembly resolution 1510 (XV), 12 December, 1960. At http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/84/IMG/NR015284.pdf?OpenElement

[102] Ghanea-Hercock, Nazila. *Op. Cit.,* p. 14.

[103] This Declaration was adopted through General Assembly Resolution 1904 (XVIII) of 20 November 1963.

Declaration indicate the sensitivity and complexity of the issue of freedom of religion and belief.[104]

In 1986, the Commission on Human Rights also appointed a Special Rapporteur on Freedom of Religion or Belief who has since been monitoring incidents and governmental actions in all parts of the world that are inconsistent with the provision of the 1981 Religious Declaration and has been recommending, according to the mandate, remedial measures including dialogue between governments and religious communities.[105]

The Religious Declaration presents freedom of religion as an individual human right and calls on States to guarantee its individual and communal dimension. At the same time the Declaration extends protection to atheistic and agnostic beliefs and indeed the right to hold no beliefs.[106] The Religious Declaration, however, does not consist of a positive account of freedoms regarding religion and belief. The language is set towards preventing and eliminating discrimination rather than protecting and defending particular associated freedoms.[107]

The preamble of the Religious Declaration offers a description, rather than a definition, of religion or belief. It states that since "*religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life",* then it is for this reason that it "*should be fully respected and guaranteed.*" Article 1(1) is largely analogous to Article 18(1) of the UDHR. Article 1(1) states that:

> Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.[108]

The word "everyone" extends the application of Article 1 to non-nationals and non-permanent resident as well. The second sentence clarifies the dimensions of the application of the article. Individual belief, as well as the external manifestation of

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[104] Ghanea-Hercock, Nazila. *Op. Cit.,* p. 12.
[105] Commission on Human Rights, Res. 1986/20, UN Doc.E/CN.4/1986/65.
[106] Kevin Boyle, "Introduction", in Ghanea-Hercock, Nazila. *Op. Cit.,* p. 1.
[107] Ghanea-Hercock, Nazila. *Op. Cit.,* p. 10.
[108] Article 1(1), Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, accessed 10 March, 2012, http://www.un.org/documents/ga/res/36/a36r055.htm

belief, is covered. The major difference from the UDHR's Article 18(1), as it has been the case for Article 18 of the ICCR, is the exclusion of the phrase "*this right includes freedom to change his religion or belief*" after the opening sentence of Article 1(1). Article 1(1) does not even include reference to everyone having the right "to have or to adopt" a religion or belief of his choice, as stated in Article 18(1) of the ICCPR. Nevertheless, Article 1(2)'s prohibition of "*coercion which would impair his freedom to have a religion or belief of his choice*" goes some way towards compensating for this omission.

Article 1(3) is identical in language to the provision of the ICCPR's Article 18(3) and sets out the only acceptable limitations to manifestation of religion or belief as those that are "*prescribed by law*" and "*necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.*"

Article 2(1) is very explicit regarding non-discrimination, since it states that "*No one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion or other beliefs.*" Ghanea-Hercock points out the importance of Article 2(1), for it explicitly recognizes that it is not only the State and the organs of the State that have responsibilities to avoid discrimination on the basis of religion or belief but also institutions, groups of persons, and single individuals.[109] The responsibility to avoid discrimination, therefore, relates to both public and private actions and public and private actors.

This emphasis on non-discrimination on the basis of religion or belief can be traced back to the UN Charter Article 55(c), the ICCPR Articles 2(1), 24(1), and 26, and the ICESCR Articles 2(2) and 13(1) mentioned above. Article 2(2) of the Religious Declaration defines the earlier reference to "*intolerance and discrimination based on religion or belief*" as "*any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.*" Moreover, Article 4(2) holds that States shall make "*all efforts to enact or rescind*" legislation as necessary to prohibit discrimination, as well as taking other appropriate measures to "*combat intolerance on the grounds of religion or other beliefs.*"

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[109] Ghanea-Hercock, Nazila. *Op. Cit.,* p. 16.

Surprisingly, nowhere in the Religious Declaration is there an explicit acknowledgment that this Declaration is set out to protect "theistic, non-theistic, and atheistic beliefs."[110] However, the inclusion in the third paragraph of the Preamble of the word "whatever" in the context of "*the right to freedom of thought, conscience, religion or whatever belief*" provides the necessary understanding for the inclusion of non-religious beliefs. It is therefore clear that this Declaration protects non-theistic and atheistic beliefs as well as theistic beliefs, even if this inclusion remains tacit rather than explicit.

At the same time, it is startling that no reference is made to religious minorities in this Declaration, even though its focus is on eliminating intolerance and discrimination in the field of religion and belief, and religious minorities generally suffer from such religious discrimination. Every religious majority was in the past, and may become in the future, a minority. Thus, protection of freedom of religion and belief is essential for the validity and authenticity of all religious beliefs and practices, whether of a majority or of a minority.[111]

In conclusion, for a complete exposure of the rights pertaining to religious minorities it must be taken into consideration the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, which will be addressed in the next paragraph.

2.6) Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities

From his 1979 Study on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities, Francesco Capotorti concluded that:

The principles set forth in Article 27 (ICCPR) are not applied in all countries. With a view to helping States to carry out the task incumbent upon them, it would be useful to draw up certain principles to which the Governments of all States could turn for guidance. Accordingly, on the basis of the conclusions of this study, the Sub-Commission might consider recommending to its superior organs the preparation of a

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[110] Ivi, p. 22.
[111] Mohamed S.M., Eltayeb. "A Human Rights Framework for Defining and Understanding Intra-Religious Persecution in Muslim Countries", in Ghanea-Hercock, Nazila. *Op. Cit.,* p. 84.

draft declaration on the rights of members of minority groups, within the framework of the principles set forth in article 27 of the Covenant.[112]

Accordingly, the Sub-Commission recommended that the Commission on Human Rights consider the preparation of a Minority Declaration. The first and the second reading of the draft were concluded between 1990 and 1991. The Commission on Human Rights approved the text on February 22nd, 1992. Finally, the General Assembly adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (Minority Declaration) without a vote at its 92nd plenary meeting of December 18th, 1992.[113] A step forward towards the promotion of the effective implementation of the rights set out in the Minority Declaration was taken during the 1994 Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In this session, the Sub-Commission proposed the creation of a working group which should "*examine the application of the Declaration, make recommendations to other UN bodies in cases of threatened escalation of intergroup violence, and promote dialogue between minority groups and between the groups and governments.*"[114] Ultimately, the Commission on Human Rights adopted a resolution on March 3rd, 1995, in which it authorized the Sub-Commission to establish a Working Group on Minorities to promote the protection of minorities and the implementation of the Minority Declaration.[115] Between 1995 and 2006, when it ceased to operate, the Working Group on Minorities aimed at being a forum for dialogue in order to facilitate greater awareness of the different perspectives on minority issues and, consequently, to seek better understanding and mutual respect among minorities and between minorities and Governments.[116] The Working Group's chairman, human rights scholar Asbjørn Eide, did author a relatively detailed commentary on the Declaration, which ultimately was approved by the Working Group as representing the views of the group.[117] According to Eide, the purpose of the Minority Declaration

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[112] Capotorti, Francesco. *Op. Cit.,* p. 102, para. 617.
[113] Letschert, Rianne M. *Op. Cit.,* p.16.
[114] Working Paper Containing Suggestions for a Comprehensive Programme for the Prevention of Discrimination and the Protection of Minorities, UN Doc. E/CN.4/Sub.2/1994/36, para. 39, accessed 26 March, 2012, http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/3b97f341e43ed3e980256736005757f3?Opendocument. For the Resolution of the Sub-Commission, see Resolution 1994/4, adopted 19 August 1994, UN Doc. E/CN.4/1995/2, para. 6.
[115] Resolution 1995/24, UN Doc. E/CN.4/1995/L.11/Add.2.
[116] Letschert, Rianne M. *Op. Cit.* pp. 3-4.
[117] See UN Doc. E/CN.4/Sub.2/AC.5/2005/2, 2005.

is to "*promote more effective implementation of the human rights of persons belonging to minorities and more generally to contribute to the realization of the principles of the Charter of the United Nations and of the human rights instruments adopted at the universal and regional level.*"[118]

The Minority Declaration lists several specific minority rights. Article 1 and Article 2 address the need for States to "protect the existence" and religious identity of minorities, "encourage conditions for the promotion of that identity", allow them to "profess and practice" their own religion, "participate effectively" in decision-making, and "establish and maintain" their own associations as well as free and peaceful contacts with co-members across frontiers.[119]

While, as it has been stated above (paragraph 2.3), Article 27 of the ICCPR established the basic principles in the field of minority rights in a negative way, Article 3(1) of the UN Declaration on Minorities implies more positive action through the use of the expression "to have the right" to profess and practice their religion freely without interference or any form of discrimination.[120] In Article 4 the Minority Declaration upholds the full equality before the law of religious minorities, and the need for States to take measures to create "favorable conditions" (Article 4(2)) allowing persons belonging to minorities to express their religion.

Article 9 of the Minority Declaration is the only reference in the Declaration to some sort of monitoring, stating that "*specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in this Declaration, within their perspective fields of competence.*" The lack of an explicit reference to a monitoring or implementation procedure brings Letschert to denounce how many organizations engaged in the protection of minorities were left with an unsatisfied feeling, worrying that the implementation of the Declaration was left entirely in the hands of States.[121]

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[118] See Aide, Asbjørn, *Final Text of the Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,* E/CN.4/Sub.2/AC.5/2001/2, 2 April, 2001 at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G01/123/98/PDF/G0112398.pdf. See also GA Resolution 47/135 and the Preamble of the Declaration.
[119] Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, accessed 3 April, 2012, http://www.un.org/documents/ga/res/47/a47r135.htm
[120] Machnyikova, Zdenka. *Op. Cit.,* p. 182.
[121] Letschert, Rianne M. *Op. Cit.,* p. 95.

In order to promote the implementation of the Minority Declaration different agencies have been developed during the years. In April 2005 the Commission on Human Rights decided to establish an Independent Expert on minority issues, whose mandate includes, among others, to identify best practices and possibilities for technical cooperation by the Office of the United Nation High Commissioner for Human Rights at the request of Governments; to apply a gender perspective to his or her work; to cooperate closely, while avoiding duplication, with existing United Nations bodies, mandates, mechanisms as well as regional organizations; and to take into account the views of non-governmental organizations on matters pertaining to his or her mandate. The Independent Expert is requested to submit annual reports on his or her activities to the Commission, including recommendations for effective strategies for the better implementation of the rights of persons belonging to minorities. In carrying out his or her mandate, the Independent Expert is required to receive information from diverse sources including States, expert bodies, United Nations agencies, regional and other inter-governmental organizations, NGOs and other civil society organizations. Based on such information, the Independent Expert communicates with States concerning implementation of the Declaration on the Rights of Minorities, and requests further consultation and information relating to good practices on minority issues. He or she is also requested to undertake, at the invitation of governments, country visits to further constructive consultation, observe relevant programs and policies, register concerns, and identify areas of cooperation. He or she studies the national legislation, policy, regulatory framework and institution and practices, in seeking to promote the effective implementation of the Declaration on the Rights of Minorities.[122]

On September 28th, 2007, the Working Group was replaced by the Forum on Minority Issues, established by Human Rights Council resolution 6/15. The aim of the Forum is to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, as well as thematic contributions and expertise to the work of the Independent Expert on minority issues. The Forum shall identify and analyze best practices, challenges, opportunities and initiatives for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Forum meets annually for two working days allocated to thematic

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[122] Eide, Asbjørn. *Op. Cit.*, pp. 16-17.

discussions. The Independent Expert on minority issues, currently Ms Rita Izsák, shall guide the work of the Forum, prepare its annual meetings and report on the thematic recommendations of the Forum to the Human Rights Council.

Finally, the UN High Commissioner for Human Rights has been entrusted by the international community, among other things, with the promotion and protection of the rights of persons belonging to minorities.[123] More specifically, the High Commissioner is entrusted with the task to promote the implementation of the principles contained in the Minority Declaration and "*to continue to engage in a dialogue with Governments concerned for that purpose.*"[124]

It is important to highlight that all these different and complementary international instruments should guarantee, if correctly implemented by States and societies, equal rights and fundamental freedoms to religious and belief minorities. On the whole, in order to better situate the case study of this research, the rights of religious minorities will be further analyzed. First, the rights of religious minorities and freedom of religion according to the Islamic tradition will be examined; then, the rights accorded to religious minorities in the Islamic Republic of Iran will be presented.

3) The Rights of Religious Minorities and Freedom of Religion According to the Islamic Tradition

Religion is an inherent and integral part of culture in Muslim countries. Islam is conceived not only as a belief, but also as an organic component of culture and society. In order to analyze the Islamic tradition concerning non-Muslim minorities and other similar issues, it must be stressed, firstly, the basic distinction between Islam itself, as derived from the totality of its sources, and the actual historical experience of Muslims, which has tended to emphasize certain aspects of Islam. The experience of Muslims, like that of any other group of people, has been shaped by the economic, social, and political forces in operation at any given point of their history. These same forces, however, were influenced by, and in turn influenced, Muslim religious law, the *Shari'ah*. Abdullahi Ahmed An-Naʹim points out how a

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[123] See General Assembly Resolution 48/141, and UN Fact Sheet No. 18 (Rev.1) "Minority Rights".
[124] UN Fact Sheet No. 18 (Rev.1) "Minority Rights", p. 6.

systematic analysis of the nature and development of *Shari'ah* would establish the fact that the Muslim religious law is not the whole of Islam but rather the early Muslims' understanding of the sources of Islam.[125]

It must be also remembered that the conception of minority communities as groups whose members must be guaranteed the same rights as the majority and which are entitled to a collective existence is an idea which only began to be publicly and internationally recognized after 1919 and the establishment of the League of Nations. Therefore, according to French historian Maxime Rodinson, it is not surprising that the notion of equal rights does not appear in the classical Islamic doctrine developed in the high Middle Ages.[126]

In the classical Islamic world[127], religious affiliation was one of the main forms of identification.[128] Ethnic minorities -sub-groups within a culture which are distinguished from the dominant group by reason of differences in physiognomy, language, customs or cultural patterns (including any combination of these factors)- were not normally taken into account. People could identify themselves as belonging to one or another of these ethnic groups, such as Arabs, Persian, Turks, Berbers, etc., but this identification was of little or no social relevance in relation to the religious communities. To describe the system developed within the classical Islamic world to cope with religious minorities, Rodinson resorts to the expression "hierarchical pluralism." In the same world there were, in fact, different minority confessions and this was the essential difference recognized by public law and consciousness. "*Religious minorities were normally subordinate, since in practice they were the weakest and in theory they were not the community of truth, at least not of the whole truth.*"[129] Among them, some minorities, seen as legitimate, enjoyed a well-defined and codified status, involving submission and protection. These were the ones that, in theory or according to the definition of the dominant group, were monotheist: Christians, Jews, Zoroastrians. There were also illegitimate ones that might have been sometimes tolerated in practice, but which had, in theory, to be driven out or

[125] An-Naim Abdullahi Ahmed, *Op. Cit.,* pp. 14-15.
[126] Rodinson, Maxime. "The Notion of Minority in Islam" in Gérard, Chaliand. *Minority Peoples in the Age of Nation-States*. London: Pluto Press, 1989, p. 55.
[127] Traditionally dated from the 7th to 13th centuries C.E. See, for example Grunebaum, Gustave E. *Classical Islam: A History, 600-1258*. Chicago: Aldine Pub. Co, 1970; and Joel L. *Humanism in the Renaissance of Islam: The Cultural Revival During the Buyid Age*. Leiden: E.J. Brill, 1992.
[128] Rodinson, Maxime. Op. Cit., p. 56.
[129] Ivi, p. 57.

eradicated, since they represented "*a criminal lie, a blasphemy, a prejudice against God.*" These were the "idolatrous" polytheists.[130]

Notwithstanding these traditional practices, Muslim and human rights scholar Abdulaziz Sachedina stresses how, through a rigorous analysis of the *Qur'an*, it can be demonstrated that the recognition of freedom of religion allows to conceive a true religious commitment as a freely negotiated human-divine relationship.[131] We shall now resort to a more accurate analysis of the sources of Islam: *Qur'an*, *Sunna*, and *Shari'ah*.

3.1) *Qur'an* and *Sunna*

The basic sources of Islam are the *Qur'an* and *Sunna*, the living example of Prophet Muhammad's own life in accordance with the *Qur'an*. The *Qur'an* was revealed in two distinct but overlapping stages: the earlier stage of Mecca, between 610 C.E. and 622 C.E., and the latter stage of Medina, between 622 C.E. and 632 C.E.. The existence of these two stages is outlined by the *Qur'an* itself, for it indicates which chapters and verses were revealed in Mecca and which were revealed in Medina.[132] Furthermore, it is worth noting the difference in the nature and content of the two sets of revelations: while the earlier texts tended to be of general religious and moral content, the latter texts were more specific and legalistic. This difference in the nature and content of revelation reflects, according to An-Naʾim, the difference in the nature of the Muslim society and the role of the Prophet in the two stages. After the proclamation of the basic religious and moral norms of the Mecca stage, in fact, the Prophet engaged in establishing the first Muslim political State in Medina. In undertaking this task, the Prophet had to respond to the concrete realities of establishing an Islamic State in seventh century Arabia. This process did not need to exhaust the whole of the religious and moral principles of Islam as

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[130] Ivi, pp. 56-57.
[131] Sachedina, Abdulaziz A. *Islam and the Challenge of Human Rights*. Oxford: Oxford University Press, 2009, p. 80.
[132] Mecca is the Prophet's hometown in western Arabia where he started to receive and preach the *Qur'an*. As a result of continued and mounting persecution of his followers, culminating in a conspiracy to kill the Prophet himself, he migrated with his followers to Medina, another town in western Arabia, in 622.

established in the Mecca stage. Following An-Na´im's account, the Medina model of the Islamic State was then "*a specific model in response to a concrete situation*."[133]

While the text of the *Qur'an* was largely recorded during the Prophet's own lifetime and finally written by the time of his third successor, the Khalifa Osman (579-656 C.E.), the *Sunna* was not recorded until the second and third century of Islam. Through an elaborate process of authentication and selection, Muslim jurists established what they believed to be the true *Sunna* of the Prophet by the third century of Islam.[134]

Finally, Muslim jurists developed the *Shari'ah*, as a body of positive law, during the second and third century of Islam. An-Na´im, therefore, notices how the sources out of which *Shari'ah* was constructed were not the pure *Qur'an* and *Sunna*, but rather the *Qur'an* and *Sunna* as already understood and practiced by generations of Muslims. Muslims now agree that the sources of *Shari'ah* are not only the *Qur'an* and *Sunna*, but also include *ijma*, consensus, and *qiyyas*, analogy. The *ijtihad* - independent juristic reasoning, which comprises *ijma* and *qiyyas*- of the leading companions of the Prophet and the early jurists, has thus become a formative force in the construction of *Shari'ah*.[135]

It is important to focus not only what *Shari'ah* has to say on religious minorities, but also why the law was formulated in that way.[136] It would be heretical for a Muslim who believes that *Shari'ah* is the final and ultimate formulation of the law of God to uphold that any aspect of this law is open to revision or reformulation by mortal and fallible human beings; therefore, if non-Muslims under *Shari'ah* enjoy an inferior status, this is the way it should be. To change this law would be as allowing human beings to correct what God has decreed. If this were the case, there would be very little, if anything, to be said to Muslims at the religious level. Nevertheless, this is not the case because, as An-Na´im suggested before, if we look at the way Islamic sources -*Qur'an* and *Sunna*- were interpreted to develop *Shari'ah*, it could be stressed that *Shari'ah* is a particular understanding of the early Muslims of the sources of Islam. This understanding must have been, and was in fact, influenced by the early Muslims' experience and perception of their world. Given the

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[133] An-Naim Abdullahi Ahmed, *Op. Cit.,* pp. 15-16.
[134] Ibidem.
[135] Ibidem.
[136] An-Naim Abdullahi Ahmed, *Op. Cit.,* p. 10.

then prevailing violent tribal rivalry and severe social and gender discriminations, the early Muslims improved on contemporary practice by restricting discrimination to religion and reducing the severity of discrimination against women. To do that, the early jurists emphasized those aspects of the Islamic sources which justified and supported such religious discrimination. Those particular aspects were developed at a time when the fundamental sources of Islam, namely *Qur'an* and *Sunna*, were specifically addressing the concrete problems of an Islamic State in seventh century Arabia. As long as the problems persisted and the answers remained valid for the following centuries, it was natural and proper for *Shari'ah* to remain the way it was. An-Na´im contends that, since the problems have changed, and the historical answers ceased to be valid, new answers must be developed out of the *Qur'an* and *Sunna*. This would represent "*the Islamic Shari'ah for today*."[137]

Our task is now to analyze religious concepts relevant to the subject of freedom of religion and belief on the basis of Islamic exegetical literature, and then to formulate an account of the structure and content of these concepts in Islamic sources. It is important, in fact, to clarify what the Qur'anic teaching on matters of freedom of religion and belief might be.[138] Since the *Qur'an* itself does not deal with these ideas directly or systematically, it is important to examine the Qur'anic exegetical material.[139]

From the early days of Islam attention was paid to the interpretation of the sacred text. During the lifetime of the Prophet some of the problems related to the comprehension of the *Qur'an* were referred to him, and he elaborated the revelation by giving explanations regarding the proper context and application of individual portions of it. These statements by the Prophet were incorporated in early exegesis.[140] After the death of the Prophet, theological exegesis of the *Qur'an* was dominated by the proponents of two major schools of dialectical theology: the Mu'tazilite and the Ash'arite. The Mu'tazilite approach to Qur'anic interpretation is based on a metaphorical interpretation of the text to support certain dogmatic presuppositions and conclusions. The basic Mu'tazilite thesis is that human beings,

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[137] Ibidem.
[138] Sachedina, Abdulaziz A., "Freedom of Conscience and Religion in the *Qur'an*" in Little, David, John Kelsay, and Abdulaziz A. Sachedina. *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*. Columbia, S.C: University of South Carolina Press, 1988, p. 53.
[139] Ivi, p. 54.
[140] Ivi, p. 55.

as free agents, are responsible before a just God. Furthermore, good and evil are rational categories which can be known through reason, independently of revelation. God created man's intellect in such a way that it is capable of perceiving good and evil objectively.[141] The Mu'tazilites asserted the efficacy of natural reason as a source of spiritual and ethical knowledge. This standpoint, however, was bound to be challenged, since the question of the extent the Qur'anic allowance for independent reasoning in matters of value is a complex and difficult one. The Ash'arites, on the other hand, rejected the idea of natural reason as an autonomous source of ethical knowledge. They maintained that good and evil are as God decrees them to be, and that it is presumptuous to judge God on the basis of categories that God has provided for directing human life. For the Ash'arite there is no way, within the bounds of ordinary logic, to explain the relation of God's power to human actions. It is more realistic just to maintain that everything that happens is the result of his will, without explanation or justification. Human responsibility is not the result of free choice, a function which, according to the Mu'tazilites, determines the way an action is produced; rather, God alone creates all actions directly, but in some actions a special quality of "voluntary acquisition" is superimposed by God's will that makes the individual a voluntary and responsible agent. Consequently, human responsibility is the result of the divine will known through revealed guidance. Ethical values have thus no foundations but the will of God expressed in the form of revelation, which is both eternal and immutable.[142]

The divergent positions of the Mu'tazilite and the Ash'arite schools mirror the complexities of the view on human responsibility contained in the *Qur'an*. The *Qur'an*, in fact, allows for both human decision and divine omnipotence in the matter of guidance. God has provided, according to Sachedina's interpretation, two forms of guidance: a universal moral guidance that belongs to every human being as such, and a particular scriptural guidance that is given to a specific faith community. The ability to accept or reject faith and to pursue an ethical life presupposes the

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[141] For a more detailed discussion of this subject see Vasalou, Sophia. *Moral Agents and Their Deserts: The Character of Mu'tazilite Ethics*. Princeton: Princeton University Press, 2008. See also Frank, Richard M. *Early Islamic Theology: The Mu'tazilites and Al-Ash'arī*. Aldershot: Ashgate Variorum, 2007.
[142] Sachedina, Abdulaziz A., "Freedom of Conscience…" Cit., pp. 55-56.

existence of an innate capacity that can guide a person to a desired goal; this innate capacity is part of human nature –*fitra* – with which God shapes humanity.[143]

"[...] *By the soul and how He formed it and inspired it [to know] its own rebellion and piety! The one who purifies his soul succeeds and the one who corrupts it fails*."(Q. 91:7-10)[144]

On the basis of the universal guidance, it is conceivable to demand uniformity because an objective and universally binding moral standard is assumed to exist that guarantees true human well-being. However, on the basis of particular religious guidance, it is crucial to allow human beings to exercise their freedom in matters of personal faith, because any attempt to enforce religious conviction would lead to its negation.[145] Faith is freely and directly negotiated between God and human beings and cannot be compelled, since there is individual autonomy in matters of faith. The Qur'anic utterance "*No compulsion is there in religion*" (Q. 2:256)[146] seems to be saying that a person has, in fact, the right to choose a different religious belief, and that person may not be punished or coerced, nor deprived of civil rights and liberties, on account of religious conviction.[147] This verse also means, according to the Iranian cleric and philosopher Mohsen Kadivar, that Muslims cannot deny that God has prohibited them from imposing faith on anyone, since forced faith and tyranny are not valid. Moreover, the disapproval of force in this verse equals accepting freedom in religion and its requirements are freedom both in bringing religion and in leaving it. "*How can a religion that denies the freedom of religion and thought expect to be freely chosen and when those who choose may have their freedom taken from them?,*" Kadivar wonders; "*if people are free to think seriously about religion, it is irrational to argue that they must choose Islam*" because if they are free, then "*the result cannot be determined beforehand,*" and if they have no choice but to accept Islam then they are not free. Force and terror in the name of religion would undermine religion itself. When a person sees a benefit in a religion, such as well-

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[143] Sachedina, Abdulaziz A. *Islam and the Challenge of...Cit.,* p. 80.
[144] *The Qur'an*. New York: Oxford University Press, 2005, sura *Ash-Shams*, Trans. Abdel, Haleem M. A.
[145] Sachedina, Abdulaziz A. Islam and the Challenge of...Cit., p. 80.
[146] *The Qur'an...Cit.*, sura *Al-Baqarah*.
[147] Sachedina, Abdulaziz A. *Islam and the Challenge of...Cit.,* p. 195.

being and spiritual peace, he or she will not let go of it. Change, therefore, "*comes when people are convinced, not when they are forced.*"[148]

Curiously, the exegetes have interpreted the Qur'anic verse 2:256 quoted above as implying that only the *ahl al-kitab* (People of the Book, i.e. Jews, Christians, and Zoroastrians) should be left to their own religion, so long as they pay the *jizya* (poll tax), while the Arabs who did not possess a revealed religion must be forced to accept Islam at the point of a sword. While Muhammad ibn Jarir al-Tabari and the Ashʿarite exegete Abū al-Futūḥ al-Rāzī agrees that tolerance in the matter of religion was to be afforded only to the People of the Book[149], Al-Zamakhshari, a Muʿtazilite exegete, maintains that God does not permit faith through compulsion and coercion, as the Ashʿarite believe.[150] Rather, God allows faith through strengthening a person with *fitra* and free choice. Accordingly, the verse "No compulsion in religion" does not exclusively apply to the People of the Book. Therefore, the People of the Book as well as all human beings must have the basic right to exercise free volition in this matter.[151]

"*For every one of you [Jews, Christians, Muslims], We have appointed a path and a way. If God had willed He would have made you but one community; but that [He has not done in order that] He may try you in what has come to you. So compete with one another in good works*". (Q. 5:48)[152]

This passage from the *Qur'an* underscores the divine mystery that allows pluralism and diversity in matters of faith and law to exist in human society. However, while the *Qur'an* acknowledges, on the one hand, the diversity of the paths adopted by different people despite the unity of their origins, on the other hand it declares the superiority of "*the true religion with God (which) is Islam*" (Q. 3:19).[153] In other words, the unity of the path is at the level of universal guidance, that which is imprinted upon human beings by God and by virtue of which they are all one nation. At the same time, diversity exists at the level of the particular guidance

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[148] Kadivar, Mohsen. "Freedom of Thought and Religion". *Current History*, Vol. 104, Issue 678, (2005) p 43.

[149] Al-Ṭabarī, Muhammad ibn Jarir, John Cooper, Wilferd Madelung, and Alan Jones. The Commentary on the Qurʾān. Oxford [Oxfordshire: Oxford University Press, 1987.

[150] Lane, Andrew J. A Traditional Muʿtazilite Qurʾan Commentary: The Kashshāf of Jār Allāh Al-Zamakhsharī (d. 538/1144). Boston: Brill, 2006.

[151] Sachedina, Abdulaziz A., "Freedom of Conscience…" Cit., p. 68.

[152] *The Qur'an…Cit.,* sura *Al-Ma'idah*.

[153] *The Qur'an…Cit.*, sura *'Ali `Imran*.

proclaimed by the prophets. Accordingly, humankind comes to be divided into different religious communities as its members adhere to one or another Revelation. That this diversity is a divinely approved mystery becomes obvious when the *Qur'an* states:

"Mankind was a single community, then God sent prophets to bring good news and warning, and with them He sent the Scripture with the Truth, to judge between people in their disagreements. It was only those to whom it was given who disagreed about it after clear signs had come to them, because of rivalry between them. So by His leave God guided the believers to the truth they had differed about: God guides whoever He will to a straight path." (Q. 2:213)[154]

It appears that the *Qur'an* regards humanity as having been one community with reference to the universal guidance, before the particular guidance through Revelation was sent. The universal guidance treats all human beings as equal and as potential believers in God before they become distinguished through the more particular guidance as believers, unbelievers, hypocrites, and so on.[155] Ultimately, God alone can guide people out of their different beliefs to the truth which is the straight path. Still, the differences are tolerated by God, as stated in another statement of the *Qur'an*:

"*Had thy Lord willed, He would have mankind one nation; but they continue in their differences excepting those of whom thy Lord has mercy.*" (Q. 11:118)[156]

Even the Prophet is advised to show tolerance toward those who did not accept his message and opposed him:

"*And if thy Lord had willed, whoever is in the earth would have believed, all of them, all together. Wouldst thou (o Muhammad) then constrain the people, until they are believers?*" (Q. 10:99)[157]

Sachedina avers that the above verses show how submission to the will of God (*Islam* in Arabic means "submission, resignation, reconciliation to the will of

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[154] *The Qur'an…Cit.,* sura *Al-Baqarah.*
[155] Sachedina, Abdulaziz A., "Freedom of Conscience…" Cit., p. 61.
[156] *The Qur'an…Cit.,* sura *Hud.*
[157] *The Qur'an…Cit.,* sura *Yunus.*

God")[158] must come through voluntary consent, which is prompted by the universal guidance that is engraved upon the human heart.[159]

The *Qur'an*, however, contains passages that can be quoted to support both equality and inequality. Interpretations of inequality are the position of some scholars, such as Abul Ala Mawdūdī and Sultanhussein Tabandeh, who see the world as divided between Islam and the rest.[160] Tabandeh demonstrates a rare candor in his willingness to concede that, according to his conception, the *Shari'ah* precludes equality between Muslims and non-Muslims. In commenting on the Universal Declaration Article 1 guarantee of equality, Tabandeh insisted that the principle of equality does not apply when it comes to differences of religion, faith, or conviction. This is because "*nobility, excellence, and virtue consist in true worship of the One God and obedience to the commandments of Heaven.*" According to Tabandeh, the *ahl al-kitab* deserve respect because of their belief, but "*since their faith has not reached the highest level of spirituality, but obeys commands which we believe to have been abrogated, and puts other laws in place of these revealed through Islam by the means of the Prophet and most righteous Judge, therefore [the Shari'ah] makes certain difference between them and Muslims, treating them as not on the same level.*"[161] For those non-Muslim who are not *ahl al-kitab*, he expresses contempt. Humanists, he said, are "*the gangrenous members of the body politic,*" and those who have not accepted the one God are "*outside the pale of humanity.*"[162]

In this context, verses from the *Qur'an* are used to provide grounds to prove the inherent superiority of Muslims over non-Muslims as well as the need to separate the two communities.

"*[Believers], you are the best community singled out for people: you order what is right, forbid what is wrong, and believe in God. If the People of the Book had also*

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[158] Wehr, Hans, and J M. Cowan. *A Dictionary of Modern Written Arabic*. Ithaca, N.Y: Spoken Language Services, 1976.
[159] Sachedina, Abdulaziz A., "Freedom of Conscience…" Cit., pp. 73-74.
[160] Mawdudi, Abul Ala. *Human Rights in Islam*. London: Islam Foundation, 1976, and Tābandeh, Sulṭān H. *A Muslim Commentary on the Universal Declaration of Human Rights*. Guildford: F. J. Goulding, 1970.
[161] Tābandeh, Sulṭān H. *Op. Cit.,* p.15.
[162] Ibidem.

believed, it would have been better for them. For although some of them do believe, most of them are lawbreakers." (Q. 3:110)[163]

"Fight those of the People of the Book who do not [truly] believe in God and the Last Day, who do not forbid what God and His Messenger have forbidden, who do not obey the rule of justice, until they pay the tax and agree to submit." (Q. 9:29)[164]

"You who believe, do not take the Jews and Christians as allies: they are allies only to each other. Anyone who takes them as an ally becomes one of them – God does not guide such wrongdoers." (Q. 5:51)[165]

Other verses, instead, evidence a different attitude, one more universal and pluralistic.[166]

"O Mankind, we created you from a single pair of a male and a female, and made you into nations and tribes that you may know each other" (Q. 49:13)[167]

Above all, however, there is the assurance that the final judgment in the matter of faith rests with God alone and no one else, not even the Prophet:[168]

"Had God willed, they were not idolators; and We have not appointed thee a watcher over them, neither art thou their guardian. Abuse not those to whom they pray, apart from God, or, they will abuse God in revenge without knowledge. So We have decked out fair to every nation their deeds; then to their Lord they shall return, and He will tell them what they have been doing." (Q. 6:107-108)[169]

While the *Qur'an* treats the diversity of religions as a divinely ordained system and the unification of all humanity under one confessional tradition as beyond any human power, the Islamic juridical tradition empowers Muslim governments to impose restrictions and discriminate against non-Muslim minorities by reducing

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[163] *The Qur'an…Cit.,* sura *'Ali `Imran.*
[164] *The Qur'an…Cit.,* sura *At-Tawbah.*
[165] *The Qur'an…Cit.,* sura *Al-Ma'idah.*
[166] Idris, Sajjad. "Reflections on Mawdudi and Human Rights."*Muslim World.* 93 (2003): 547-561, p. 556.
[167] *The Qur'an…Cit.,* sura *Al-Hujurat.*
[168] Sachedina, Abdulaziz A., "Freedom of Conscience…" Cit., p. 75.
[169] *The Qur'an…Cit.,* sura *Al-'An`am.*

them to second-class citizens. The Iranian cleric and philosopher Mohsen Kadivar stresses how, in the Islamic juridical tradition,

a Muslim is not allowed to change his religion to become, for example, a Christian or a Buddhist or become an atheist. A Muslim who for any reason leaves his religion, or in other words becomes an apostate, would be severely punished. The child of a Muslim who has chosen to become a Muslim after maturity and then renounces Islam is subject to execution, even if he repents. His wife would be separated from him without divorce, and his property expropriated and divided among Muslim heirs. Also, a youth with one Muslim parent is not free to choose another religion other than Islam after maturity. If she or he does not become a Muslim the charge of apostasy would apply, although she or he would first be asked to repent. If the apostasy continues the person would be sentenced to death or to life imprisonment with forced labor.

Kadivar quotes different "traditions" that are frequently cited as justifications for these punishments. If, on the one hand, Sunni Muslims refer to the tradition of the prophet that states "*Kill anyone who changes his religion*," on the other hand Shiite Muslims refer to a tradition from their sixth imam, Jaafar Sadeq, which also reportedly prescribes death as a penalty for anyone who leaves Islam.[170]

The fundamental problem in establishing freedom of religion in Islamic tradition has been, in Sachedina's account, a lack of serious conceptual analysis to distinguish the strictly religious from the political. According to him, Muslim jurists were, more or less, aware of the two separate spheres of human activity in the realm of spiritual and temporal existence; therefore, they distinguished separate jurisdictions in formulating the spiritual and the temporal in Islamic jurisprudence. The human-God relationship, characterized by a strictly spiritual relevance, remains permanently beyond the reach of human institutions as well as political power. It is thus configured as founded upon individual autonomy and moral agency regulated by a sense of accountability to God alone, for either acts of omission or commission. In contrast, inter-human relationships are founded upon an individual and collective social-political life, with personal responsibilities and social accountability as the means of attaining justice and fairness in human relations. Such separation of

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[170] Kadivar, Mohsen. *Op. Cit.,* p 43.

jurisdictions in the *Shari'ah* can then explain the foundation of the freedom of religion and conscience, as a realm beyond any human institutional control.[171]

In order to complete the overview of the Islamic tradition, it is now necessary to proceed with an analysis of the categories of subjects of the Islamic State according to the *Shari'ah*.

3.2) *Dhimmah* and *Āmān*

Shari'ah classifies the subjects of an Islamic State into three main religious categories: Muslims or full citizens; *ahl al-kitab*, "people of the Book", non-Muslims who believe in one of the heavenly revealed scriptures, originally Christians and Jews; and unbelievers, non-Muslims who do not believe in one of the heavenly revealed scriptures. The People of the Book may be granted some rights of citizenship if they submit to Muslim sovereignty, under what is known as the contract of *dhimmah*, a charter of rights and duties stipulated with the Islamic State. The Iranian scholar Seyed Mohammad Ghari Fatemi defines *dhimmah* as the permission given to *ahl al-kitab* to reside in *Darul-Islam,* "the territory of Islam"*, provided that they respect Islamic rules. *Darul-Islam,* indeed, by accepting them in the light of such an agreement, grants them the Muslims' protection, in return for the payment of *jizya*, a poll-tax paid as tribute to the Muslim rule. In fact, by this agreement the *dhimmis,* members of these non-Muslims communities that entered into *dhimmah,* will be recognized as members of the legitimate religious minorities who are granted the protection of *Darul-Islam*.[172] The contract of *dhimmah* bestowed upon a certain community of *ahl al-kitab* entitles it to security of the person and property, freedom to practice its own religion, and a degree of internal community autonomy to conduct its personal private affairs in accordance with its religious law and customs. *Dhimmis* may continue to enjoy these rights as long as they conform to the terms of their contract with the Muslim State.

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[171] Sachedina, Abdulaziz A. *Islam and the Challenge of...Cit.,* p. 192.
[172] Seyed Mohammad Ghari Fatemi, "Nationality or Citizenship? A Normative Appraisal of International Law, Shi'i *Fiqh*, and the Iranian Legal System," in Modif University, *Collected Papers of the International Conference on Human Rights and Dialogue of Civilization*. Qom-Iran: Modif University Publications Institute, May 2001, p. 261.

According to the *Shari'ah*, however, *dhimmis* are not allowed to participate in the public affairs of an Islamic State and are excluded from serving in the military, since, as non-Muslims, they cannot be expected to fight in holy wars on behalf of Islam.[173] Furthermore, they are not allowed to hold any position of authority over Muslims, even though Muslims may, and in fact do, hold such positions over *dhimmis*.

Dhimmis may practice their religion in private, but they are not allowed to proselytize or preach their faith in public. Whereas a *dhimmi* is allowed and even encouraged to embrace Islam, a Muslim may never abandon Islam.[174] As recognized by Iranian human rights scholar Kamran Ashemi, *dhimmis* do not enjoy equal rights with Muslims in practicing their religions.[175]

Unbelievers are not entitled to this option of limited citizenship and are to be killed on sight unless they are granted the temporary contract of *āmān*, "safe conduct," by Muslims. The *Shari'ah* does not contemplate their permanent residence, let alone partial citizenship of an Islamic State.

"*When the forbidden months -the four months of Grace in the Arabic-Muslim calendar- are over, wherever you encounter the idolaters, kill them, seize them, besiege them, wait for them at every lookout post; but if they turn [to God], maintain the prayer, and pay the prescribed alms, let them go on their way, for God is most forgiving and merciful.*" (Q. 9:5)[176]

If an Unbeliever is granted such *āmān*, then his or her rights and duties are determined by the terms of this contract. Once it has lapsed or it has been revoked, they become enemies or *harbis,* meaning "at war" with the Muslims. As such, they have no permanent and general sanctity of life or property. *Harbis* in classical Shiite literature indicates those who do not obey God and his Prophet and have not entered the *dhimmah* or other agreement with *Darul-Islam*.[177]

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[173] Mayer, Ann E. *Islam and Human Rights: Tradition and Politics*. Boulder, Colorado: Westview Press, 1999, p. 135.
[174] An-Naim Abdullahi Ahmed, *Op. Cit.,* pp. 11-12.
[175] Hashemi, Kamran. *Op. Cit.,* p. 142.
[176] *The Qur'an…Cit.,* sura *At-Tawbah*.
[177] Ivi, p. 139.

According to An-Na´im, if we apply these *Shari'ah* principles to a modern nation-state, we find that the human rights implications could be very serious. For the non-Muslim, in fact, the immediate options are to become Muslims, *dhimmis* if they happen to be people of the Book, or *harbis*, at the risk of being killed on sight unless they are allowed temporary *āmān.*[178]

It has to be added, however, that the only known religions to early Muslims at the time of the emergence of Islam were Christianity, Judaism and Sabianism (a sect between Christianity and Judaism). These are the religions that are listed in the *Qur'an*:

"*The [Muslim] believers, the Jews, the Christians, and the Sabians –all those who believe in God and the Last Day and do good –will have their rewards with their Lord. No fear for them, nor will they grieve.*" (Q. 2:62)[179]

In theory, other faiths were not tolerated. In pre-modern *Shari'ah* doctrine, non-Muslims who were not Christian, Jewish, or Sabi were categorized as polytheists or unbelievers. When conquered by Muslims, they theoretically had to either embrace Islam or accept death. In practice, as Islam rapidly expanded eastward during the seventh century, the pre-modern doctrines had to be adjusted and Muslims had to learn to coexist with Hindus and other polytheists.[180] Furthermore, when the Muslims had to confront other religions in the north, Zoroastrians were also included among the *dhimmis*. With the expansion of Islam westward, the title of protected people was also extended, for practical reasons, to non-Zoroastrians, such as the Scandinavians and the Berbers.[181]

An example of revisited application of the notion of *dhimmah* and of the related personal rules could be identified in the Persian empire of the 17th century C.E., where Armenian communities settled in larger cities. Armenians had autonomy over their internal affairs including their personal family law. Another Islamic empire, that of the Ottomans, had a clearer history of practicing a *dhimmah*-descended rule,

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[178] An-Naim Abdullahi Ahmed, *Op. Cit.,* pp. 11-12.
[179] *The Qur'an...Cit.,* sura *Al-Baqarah*.
[180] Mayer, Ann E. *Op. Cit.,* p. 135. See also Schimmel, Annemarie, and Burzine K. Waghmar. *The Empire of the Great Mughals: History, Art and Culture*. London: Reaktion Books, 2004, p. 107, "The conqueror Muhammad Ibn Al Qasem gave both Hindus and Buddhists the same status as the Christians, Jews and Sabaeans the Middle East."
[181] Hashemi, Kamran. *Op. Cit.,* pp. 145-146.

designated by the Turkish term as the system of *millets*. *Millet* is the Turkified form of the Arabic word *millat*, term that has adopted a rather wide range of meanings. Equivalents might be, according to Maxime Rodinson, nation, religious community, religious doctrine peculiar to a nation or to a community.[182]

Two main aspects of *dhimmah*, understood as the recognition of major religious groups and recognition of their religious family law, have survived until the present, as shown by the Islamic Republic of Iran, which will be tackled in the next section. A particular policy with regard to religious minorities that is applied in some Muslim countries, including Iran, is the allocation of special seats in Parliament for representatives of recognized religious minorities. This policy, however, is a new phenomenon of the modern State and does not have any roots in the *dhimmah* traditions outlined here.[183]

4) The Rights of Religious Minorities in the Islamic Republic of Iran

Once having addressed the issues of religious minorities' rights and freedom of religion or belief at the international level and according to the Islamic tradition, it is now important to focus on the Islamic Republic of Iran and analyze how it handles the issue of religious minorities in its legislation. This section is essential for the aims of this research, since it situates the broad argument within the frame of a specific case study. Only within concrete situations, in fact, we can try to uphold freedom of religion and belief and the principles of equality and non-discrimination.

4.1) Constitution of Iran

The Constitution of the Islamic Republic of Iran (IRI), adopted on October 24th, 1979, and then amended on July 28th, 1989[184], declares in Article 12 that the

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[182] Rodinson, Maxime. *Op. Cit.,* p. 58.
[183] Hashemi, Kamran. *Op. Cit.,* p.174.
[184] The constitutional referendum held on 28th July 1989, alongside presidential elections, was approved by 97% of voters. It made several changes to articles 5, 107, 109, 111, and added article 176. It eliminated the need for the Supreme Leader (*rahbar*) of the country to be a *marja* or chosen by

Twelvers Shi'a[185] sect is the official and dominant faith in Iran, but other Muslims denominations are tolerated as well. Moreover, it lists three non-Muslim religious groups as recognized religious minorities.[186] According to Article 13 of the Constitution of Iran, in fact, "*Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, with the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education.*"[187]

Along with the recognition of religious minorities, special seats have been allocated to the representatives of religious minorities in the Parliament of Iran. As stated in Article 64(2) "*The Zoroastrians and Jews will each elect one representative; Assyrian and Chaldean Christians will jointly elect one representative; and Armenian Christians in the north and those in the south of the country will each elect one representative.*"[188] Therefore, the minority religious groups recognized by the Constitution are represented in the Parliament by a total of five members who are elected by the minority groups themselves.

There have been two different views on this system of officially recognized religious minorities; according to the Iranian authorities, this split electoral system guarantees political representation to minorities despite their small number. However, according to non-governmental sources, this system affected the political rights of non-Muslim communities and based citizenship on religion, going against the notion of citizenship free of any distinction, including religion.[189] The authorities in Iran have always insisted on the advantages of the allocation of special seats to

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popular acclaim, it eliminated the post of prime minister, and it created a Supreme National Security Council. See Abrahamian, Ervand. *A History of Modern Iran*. Cambridge, U.K: Cambridge University Press, 2008, pp. 182-183.

[185] Twelver Shi'ah is the name of the branch of Shiism that believes in twelve Imans. According to the Twelvers, the first six Imams were followed by Musa al-Kazim; Ali al-Rida; Muhammad al-Jawad al-Taqi; Abu al-Hasan Ali al-Askari (al-Naqi); Abu Muhammad al-Hasan al-Askari, and Muhammad al-Qaim (al-Mahdi/al-Hujja).

Principal among the basic doctrines of Twelver Shiism, as formulated by the fifth Imam Muhammad b. Ali Zayn al-Abidin (al-Baqir) are: the belief that the imamate passes on from one Imam to the next by virtue of a divine command which is revealed in an explicit divinely-inspired designation; that all the Imams are descendants of the Fatimid line; that they possess special knowledge of a kind denied to ordinary mortals; that they have absolute spiritual authority and should also have absolute political authority.

Within the whole body of Shiism, the Twelvers are both the most numerous in terms of adherents and theologically the most balanced between the exoteric and esoteric elements of Islam.

See Donzel, E J. *Islamic Desk Reference*. Leiden: E.J. Brill, 1994, p. 464.

[186] Hashemi, Kamran. *Op. Cit.,* p. 175.

[187] Algar, Hamid. *Constitution of the Islamic Republic of Iran*. Berkeley, Calif.: Mizan Press, 1980, p. 32.

[188] Ivi, p. 52.

[189] Hashemi, Kamran. *Op. Cit.,* p. 179.

representatives of religious minorities, and they "*often used the term 'privilege' in referring to minorities, particularly their representation in Parliament even though they are fewer in number than required by the Constitution.*"[190]

On the status of religion in relation to the State, Indian human rights expert and former Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities Arcot Krishnaswami broadly classifies States into three different categories: "*Those which have an established church or State religion, those in which several religions are recognized by the State, and those in which State and religion are separated.*"[191] Then, while setting Muslim countries under the second category, he adds that "*There is no strict dividing line between countries having an established church or a State religion and those where several religions are recognized; in many Muslim countries, for example, Islam is the State religion, but recognition is accorded to a number of other religious communities as well*". Krishnaswami focuses his attention on non-discrimination and religious rights. According to him, the recognition does not necessarily affect the religious rights and equality of members of different religious groups, because they can still take advantage of the general law of association and their followers, as citizens, are equal under the law. "*Of course, if the State has discretionary power to grant or to refuse recognition, and if the privileges accorded to recognized religions, or to their followers, are very different from those accorded to unrecognized ones, this may lead to discrimination.*"[192]

While there are no clear provisions in the Constitution of Iran about non-recognized religious minorities, Article 14 addresses non-Muslim in general:

"*In accordance with the sacred verse 'God does not forbid you to deal kindly and justly with those who have not fought against you because of your religion and who have not expelled you from your homes' [Q. 60:8], the government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their*

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[190] Amor, Abdelfattah. "Special Rapporteur of the Commission on Human Rights, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Report Relating to Visit to Iran." U.N. Doc. E/CN.4/1996/95/Add.2 (9 Feb. 1996), Para. 16., accessed 5 April, 2012, http://www1.umn.edu/humanrts/commission/country52/95-add2.htm

[191] Krishnaswami, Arcot. *Study of Discrimination in the Matter of Religious Rights and Practices*. New York: United Nations, 1960, p. 46.

[192] Ivi, p. 47.

human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran."[193]

The first part of the article is related to the way Muslims have to treat non-Muslim in general. The focus of the Qur'anic verse quoted within the Article is referring specifically to the time of war in early Muslim history and the way Muslims had to treat non-believers who did not belong to the camp of enemy. According to this verse, enmity and hatred of a group must not be an obstacle for implementing justice and it should not lead to the violation of human rights.[194]

Apart from its ambiguity, the second part of the article, dealing with conspiracy and activity against Islam and the Islamic Republic of Iran, implies that such criminal acts deprive the perpetrators of their human rights. The wording of Article 14, therefore, has been widely criticized by different scholars. Kamran Hashemi, for example, stresses how this article does not provide any protections for unrecognized religious groups, but it suggests further grounds for restrictions against non-Muslims. Therefore, the omission of the article would be more favorable for religious minorities than its actual existence.[195] At the same time, Abdullahi An-Naim condemns Articles 14 for authorizing discrimination on grounds of religion.[196] Finally, human rights expert and scholar Nazila Ghanea-Hercock highlights that whereas "conspiracy or activity against" the Islamic Republic of Iran refers presumably to espionage and treason, *"its conjunction with such activity against 'Islam' makes it less determinate and more ideologically subjective. In any case, respect for human rights is made dependent on this somewhat vague conditionality, and is therefore very problematic according to international human rights standards."*[197] In response to these concerns, the representatives of Iran at the Human Rights Committee have stated that "*The expression 'conspiracy or activities against Islam and the Islamic Republic of Iran' had been clearly defined in the relevant legal rules and regulations as the action of individuals who resorted to conflict or endangered the security or independence of the country or of the Islamic system. Punishment was*

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[193] Algar, Hamid. *Op. Cit.,* p. 33.
[194] Hashemi, Kamran. Op. Cit., p. 183.
[195] Ivi, p. 184.
[196] An-Naim Abdullahi Ahmed, *Op. Cit.,* p.1.
[197] Nazyla, Ganea. *Ethnic and Religious Groups in the Islamic Republic of Iran: Policy Suggestions for the Integration of Minorities Through Participation in Public Life*. E/CN.4/Sub.2/AC.5/2003/WP.8. 5 May 2003.

imposed so as to fit the particular crime; it might consist of imprisonment or, in some cases, capital punishment."[198]

Since the second part of Article 14 does not specify which activities might qualify as "anti-Islamic," Human Rights scholar Ann Elisabeth Mayer claims that this provision could provide sweeping grounds for curbing the associational rights of members of religious minorities.[199] This could be seen in addition to a general provision in Article 26 that enables the government to curb the activities of groups, including "minority religious associations," if they are contrary to the principles of Islam or the Islamic Republic.[200]

Article 19 of the Iranian Constitution provides that "*The people of Iran, of whatever tribe and clan, shall enjoy equal rights, and colour, race, language and the like shall not be a privilege;*"[201] therefore, it does not explicitly refer to religion as a ground for the denial of equality and discrimination.[202] Article 20 of the Constitution is not helpful in this regard either, as it states that "*All members of the nation, both men and women, shall receive equal protection of law and enjoy all human, political, economic, social, and cultural rights, with due observance of the principle of Islam.*"[203]

In contrast to these two articles, Article 1 of the UDHR states, without equivocation, that "*all humans are born free and equal in dignity and rights*," while Article 2 guarantees to everyone "*all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*"

A broader protection is afforded to members of religious minorities by Articles 22 and 23 of the Iranian Constitution, which state, respectively, that "*The dignity, life, property, rights, residence, and occupation of the individual are inviolate, except in*

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[198] Human Rights Committee, 48th session, 29 July 1993, UN Doc. CCPR/C/SR.1251, para. 37.
[199] Mayer, Ann Elizabeth. "Islamic Rights or Human Rights: An Iranian Dilemma", *Iranian Studies*, Summer - Autumn, 1996, vol. 29, no. 3/4, p. 275.
[200] Algar, Hamid. *Op. Cit.,* p. 38.
[201] Ivi, p. 36.
[202] Hashemi, Kamran. *Op. Cit.,* p. 189.
[203] Algar, Hamid. *Op. Cit.*, p. 36.

cases sanctioned by law" and that "*The investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.*"[204]

Considering the ambiguities and shortcomings in the Iranian Constitution, human rights lawyer and Tunisian jurist Abdelfattah Amor, in his report undertaken as Special Rapporteur of the Human Rights Committee on freedom of religion or belief, recommends the necessity of a more clear and efficient legislation on the recognition of the religious rights of followers of non-recognized religions: "*Although the situation of the other non-recognized minorities or communities, such as the Baha'is, is covered by articles 14, 22 and 23 of the Constitution in which the concepts of citizen, individuals and persons are used, the Special Rapporteur recommends that a legislative enactment should give clearer recognition to these rights for every citizen, individual or person, regardless, inter alia, of his beliefs or the community to which he belongs.*"[205]

In Iran, the Leader and the President must both be Shiite Muslims, according to Articles 5, 109, and 115 of the Constitution.[206] Moreover, because of the religious character of the State, apart from those of the Leader and the President, some other senior positions are reserved for *mujtahids* -clerical members of the Guardian Council and members of the Council of Experts- Shiite Muslims as well.[207]

With regard to the military, there is no explicit statement in the Constitution prohibiting the participation of members of religious minorities in the army or their access to senior position there; however, the language of Article 144 of the Constitution, which insists on the Islamic characteristics of the army, is ambiguous, for it stresses that "*The Army of the Islamic Republic of Iran must be an Islamic Army, i.e. committed to Islamic ideology and the people, and must recruit into its service individuals who have faith in the objectives of the Islamic Revolution and are devoted to the cause of realizing its goals.*"[208]

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[204] Ivi, p. 37.

[205] Amor, Abdelfattah. *Op. Cit.,* Para. 90.

[206] Algar, Hamid. *Op. Cit.,* pp. 29, 67 and 71.

[207] For a detailed exposure of the Iranian political system see, for example, Schirazi, Asghar. *The Constitution of Iran: Politics and the State in the Islamic Republic*. London: I.B. Tauris, 1997, Abrahamian, Ervand. *A History of Modern Iran*. Cambridge, U.K: Cambridge University Press, 2008, or Keddie, Nikki R, Yann Richard. *Modern Iran: Roots and Results of Revolution*. New Haven, Conn: Yale University Press, 2003.

[208] Algar, Hamid. *Op. Cit.,* p. 79.

The law of the Armed Forces adopted in 1980 clarifies the provision of the Constitution, since it provides that "*Employment of persons in the armed forces of the Islamic Republic of Iran who are not Muslim, Zoroastrian, Jew or Christian is absolutely forbidden.*" Only Muslims and followers of religions recognized in the Constitution of the Islamic Republic of Iran (Zoroastrian, Jews, and Christians) can then be employed by the armed forces.[209]

Unlike other Muslim countries, Iran is the only country where, according to legislation, judges at any level have to be Muslims.[210] The Constitution, in fact, states in Article 163 that "*the qualifications and conditions of judges shall be laid down by law in accordance with the criteria of fiqh,*" "Islamic jurisprudence."[211] Hence, according to the Law on the Selection of Judges adopted in 1983,[212] which implemented the provision of the Constitution, "*Judges will be appointed from among the males with the following qualifications: they should have full faith and commitment to the Islamic principles and should be faithful to the System of the Islamic Republic of Iran.*" Therefore, being a judge is an occupation reserved only for Muslim men, and women or followers of other religions cannot become judges. However, according to Shirin Ebadi, a lawyer herself, such restriction is not applicable to lawyers, and women and non-Muslims can then practice law in such position.[213]

In his above-mentioned report, Abdelfattah Amor taps into the ambiguity of legislation of Iran with regard to discrimination on grounds of religion and especially professional access by members of minorities to the army and judiciary (Articles 144 and 163 of the Constitution), reiterating that "*a legislative enactment regulating the administration in general should prohibit discrimination against any Iranian citizen regardless of, inter alia, his or her beliefs or the community to which he belongs.*"[214]

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[209] Ebadi, Shirin. *History and Documentation of Human Rights in Iran*. New York: Bibliotheca Persica Press, 2000, p. 109.
[210] Hashemi, Kamran. *Op. Cit.,* p. 190.
[211] Algar, Hamid. *Op. Cit.,* p. 87.
[212] See Human Rights Watch, "Iran, Religious and Ethnic Minorities: Discrimination in Law and Practice", Vol. 9, No. 7, Sept. 1997.
[213] Ebadi, Shirin. *Op. Cit.,* p. 109.
[214] Amor, Abdelfattah. *Op. Cit.,* Para. 89.

In conclusion, there is an aspect concerning the Iranian Constitution that is worth noting in the context of the relationship between the Iranian State and the religious minorities living on its territory. The Iranian Constitution, in fact, abundantly resorts to Islamic qualifications in defining its different articles. Article 4, for example, provides that all laws, including the Constitution, must be based on Islamic criteria. Article 12, as noticed above, establishes Twelver Shi'ism as the State religion of Iran. Thus, "Islamic" criteria would actually consist of Twelver Shi'a standards as interpreted by Iran's ruling clerics.[215] Article 20, described above, stipulates that human rights are to be enjoyed within the "observance of the principle of Islam." Article 14, finally, calls for the government and all Muslims to treat non-Muslims in accordance with Islamic justice and equity and to honor their human rights, thereby indicating that Islamic standards will govern their status as well.

However, Iran has left undefined the scope of Islamic qualifications on rights. Such lack of definition, as claimed by Mayer, leaves the Islamic Republic completely free to determine what the Islamic qualifications mean. Modern human rights are designed to protect the rights of the individual and minority groups against possible abuses perpetrated by the State or the society against them; thus, allowing the State complete discretion to define the scope of such rights might put the efficacy of human rights at risk.[216]

We can now proceed with an analysis of how such law provisions are actually put into practice within the Iranian legislation.

4.2) Penal Code and Civil Code of Iran

Equality before the law means that all citizens are equal before the law without discrimination on the basis of "sex, color, race, religion, or social origin." For example, if the law recognizes an act as crime, the punishment for all who commit that crime should be the same. This principle has been incorporated in the Iranian domestic law. However, there as some cases regarding sexual intercourse,

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[215] Mayer, Ann Elizabeth. "Islamic Rights or…" Cit., p. 273
[216] Ivi, p. 272-273

punishment for murder, and marriage, where the involvement of members of religious minorities infringes upon the above-mentioned principle.

Mohsen Rahami claims that discriminatory provisions against non-Muslims exist in the Islamic Penal Code of Iran approved in 1991.[217] According to Article 88, "*An unmarried man or woman who commits fornication will be sentenced to one hundred lashes.*"[218] Therefore, if an unmarried man and woman engage in sexual intercourse, both actors can be punished by one hundred lashes. This applies to the case in which the man involved in the act of fornication is Muslim and to the case in which, if the man is not Muslim, his sexual partner is not Muslim either. Nevertheless, if the religious affiliation of the parties involved is different, the punishment is different as well. According to Article 82(c), in fact, if a non-Muslim man commits adultery with a Muslim woman, his penalty is death.[219] No penalty is specified in the Penal Code for a Muslim man who commits adultery with a non-Muslim woman. Therefore, it is plausible to conclude that, for an equal act, a Muslim man will be sentenced to one hundred lashes, while a non-Muslim man will be sentenced to death.[220]

Furthermore, as far as sexual intercourse between men is concerned, according to Article 109 and 110 of the Islamic Penal Code, both the passive party and the active party engaged in sodomy are sentenced to death. According to Article 121 of the Islamic Penal Code, "*Two men engaged in sexual act other than penetration will be sentenced to one hundred lashes.*" The note added to this Article provides that "*If the active party in the act is non-Muslim and the passive party a Muslim, the active party will be sentenced to death*."[221] Therefore, the punishment for the same act is different for persons of different religions.[222] Similar discrimination against non-Muslims exists in Articles 139 and 147 of the Penal Code.[223] Hashemi, however,

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[217] Rahami, Mohsen. "Islamic Restorative Traditions and Their Reflections in the Post Revolutionary Criminal Justice System of Iran." European Journal of Crime, Criminal Law and Criminal Justice. 15.2 (2007): 227-248. See also Sanei, Faraz. *Codifying Repression: An Assessment of Iran's New Penal Code*. New York, N.Y.: Human Rights Watch, 2012, pp. 8-10.
[218] Islamic Penal Code of Iran, accessed 3 March, 2012, http://www.unhcr.org/refworld/docid/4d384ae32.html
[219] Ibidem. See also Sanei, Faraz, *Op. Cit.*, p. 24.
[220] Ebadi, Shirin. "Islam, Human Rights, and Iran." *Emory International Law Review*. 23.1 (2009): 13-24, p. 19.
[221] Islamic Penal Code...*Cit*.
[222] Ebadi, Shirin. *History and Documentation...Cit.,* p. 73.
[223] Islamic Penal Code...*Cit.*

notices that the *hudud,* corporal punishments, require a high standard of evidence.[224]

As far as murder crimes in Islamic legal traditions are concerned, the parents or other relatives of a murder victim can claim *diah*, "monetary compensation, blood money," pardon the murder, or allow *qisas*, "retaliation," to be carried out. *Qisas* is the right of revenge belonging to the victim's heir. It implies that the punishment must be equivalent in nature and severity to the offence. In the case of a murder, such punishment is the death penalty. *Diah* or "blood money" compensation is the possibility offered to the victim's heir to forgo their rights to *qisas* or "retaliation" by accepting monetary compensation in exchange.[225] Articles 297-300 of the Penal Code set forth the rules for the calculation of the amount of blood money to be paid to the family when the victim is a Muslim man. However, the Penal Code is silent about non-Muslims.[226]

Concerning the crime of murder, Article 207 of the Islamic Penal Code of Iran states that "*If a Muslim is killed, the murdered shall be executed and one who assisted in the murder will be sentenced to 3 to 15 years of imprisonment.*"[227] From this Article, it could be inferred that only the murder of a Muslim results in *qisas*. Thus, the murder of non-Muslim would not amount to *qisas*. According to the majority of traditional Muslim jurists the murder of a Muslim by non-Muslim leads to *qisas*, but if a Muslim kills a person belonging to *ahl al-kitab*, the law does not require *qisas*, but merely half of the blood money of a Muslim.

However, there is the possibility for the murderer of a non-Muslim to be still subject to retaliation. This happens when a *kafir* is involved: *kafir*, meaning "unbeliever," has not been defined in the Iranian legal system, but in Islamic jurisprudential sources it has been described as any non-Muslim. Specifically, *kafir zemi* is an unbeliever in Islam who proclaims Christianity, Judaism or Zoroastrianism. In the case in which both murderer and victim happen to be *kafir zemi*, even though from different religious sects, the murderer would be subject to

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[224] Hashemi, Kamran. *Op. Cit.,* p. 192.
[225] Rahami, Mohsen. *Op. Cit.,* p. 230.
[226] Hashemi, Kamran. *Op. Cit.,* p. 193.
[227] Islamic Penal Code…*Cit.*

qisas. Articles 209, 210, and 212 of the Penal Code of Iran, in fact, provide for these different sets of rules.[228]

A problem arises when the murderer is Muslim and the victim is not, in which case the murderer will not be executed. But the law is silent to what kind of punishment should be adopted for the murderer in such case. Article 2 of the Islamic Penal Code of Iran provides that "*Any act, or omission of an act, for which the law has prescribed a punishment, shall be recognized as a crime.*"[229] Therefore, since the law has not prescribed a punishment for the murder of a non-Muslim by a Muslim, it could be inferred that such an action would not even constitute a crime under the domestic law.[230] Ayatollah Khomeini provided a specific penalty in such cases: if the Muslim was a habitual killer of non-Muslims, then he had to be killed; if he was not a habitual killer, then he had to pay financial compensation (blood money) to the non-Muslim family.[231]

Furthermore, the law is completely silent about the murder of, for example, an atheist or a Buddhist (who is a non-People of the Book) by a Muslim or non-Muslim. The law is also silent about the mixed litigation of a Muslim and a non-Muslim. The murder of a non-Muslim, however, is not tolerated according to the Islamic tradition. "*Where one kills another without an excuse, it is as though he has killed all human beings, and where one saves a life, it is as though he has saved all human beings.*" (Q. 5:32)[232] In light of this provision, Shirin Ebadi holds that it would be incorrect to consider that Islam supports only Muslims and conceives the right to life as a prerogative for Muslims only.

As noted above, Article 14 of the Constitution stipulates that Muslims are required to treat non-Muslims with good manners and Islamic justice and observe their human rights. Though the Constitution emphasizes observing rights of religious minorities, there is an Article in the Civil Code of Iran that contradicts this goal. Article 881 of the Civil Code of Iran, in fact, provides that "*An unbeliever (kafir) does not take inheritance from a Muslim and if there are unbelievers among the heirs of a deceased unbeliever, the unbelieving heirs do not take inheritance even if they*

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[228] Ibidem.
[229] Ibidem.
[230] Ebadi, Shirin. *History and Documentation...Cit.,* p. 62.
[231] *Ivi,* p. 88.
[232] *The Qur'an...Cit.,* sura *Al-Ma'idah.*

have closer affinity to the Muslim as far as class and degree of affinity are concerned."[233] According to Article 881 (bis) of the Civil Code, a non-Muslim does not inherit from a Muslim.[234]

With respect to marriage, Article 16 of the UDHR clearly states that the right to enter into marriage is without any limitation due to race, nationality, or religion. However, it is common among religious traditions to contain impediments for a mixed marriage. A Muslim man can legally marry a non-Muslim woman, but a Muslim woman cannot marry a non-Muslim man. Article 1059 of the Iranian Civil Code stipulates that "*Marriage of a female Muslim with a non-Muslim is not allowed.*"[235] A Shiite Muslim woman is allowed to marry a Sunni Muslim but is not allowed to marry a man from other religions.[236]

Nevertheless, General Comment 19 of the Human Rights Committee affirms the importance of providing civil marriage along with religious marriage: "*The legislation of each State should provide for the possibility of both religious and civil marriages.*"[237] In response to this requirement, Hashemi highlights how Iran has recognized civil marriage in February 2000, and how this, however, might have caused an increase of related mixed cases such as divorce, inheritance, and custody before the courts. In order to resolve these problems, along with the recognition of civil marriage, Hashemi suggests that the government should adopt a neutral law and apply it to mixed cases and to any individual who wishes to be exempt from his or her own group's personal law. [238] This would fall in line with what the Third Committee of the General Assembly reiterated: application of religious law on members of religious minorities should be on a voluntary base.[239]

Overall, the object of modern human rights should be to remove all discrimination based on religion or belief and legally guarantee complete freedom in

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[233] Civil Code of the Islamic Republic of Iran, accessed 3 March, 2012, http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,IRN,,49997adb27,0.html
[234] Ebadi, Shirin. *History and Documentation...Cit.,* p. 98.
[235] Civil Code of the Islamic Republic of Iran...*Cit.*
[236] Ebadi, Shirin. *History and Documentation...Cit.,* p. 102.
[237] Human Rights Committee, General Comment No. 19, Article 23 on The Protection of the Family, the Right to Marriage and Equality of the Spouses, 39th Session (1990), para. 4 , accessed 6 April, 2012, http://www.unhcr.org/refworld/docid/45139bd74.html
[238] Hashemi, Kamran. *Op. Cit.,* p. 205.
[239] The Third Committee of General Assembly, at its 1103rd and 1104th meetings (1961-1962), Official records of the General Assembly, Sixteenth Session, Annexes, item. 35, document A/5000, paras. 116-126.

this matter. As Muslim scholar Abdullahi Ahmed An-Na'im suggests, since Muslims cannot, and should not be allowed to justify discrimination and persecution of non-Muslims on the basis of Islamic cultural norms, they must seek ways of reconciling Islamic tradition with these fundamental human rights.[240]

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[240] An-Naim Abdullahi Ahmed, *Op. Cit.,* p. 18.

Chapter 3

Religious Minorities in Iran

> "Human beings are members of a whole,
>
> In creation of one essence and soul.
>
> If one member is afflicted with pain,
>
> Other members uneasy will remain.
>
> If you've no sympathy for human pain,
>
> The name of human you cannot retain!"
>
> Sa'di, Iranian poet (1231-1292 C.E.)[1]

The third part of this research will be devoted to an examination of the religious minorities in Iran, highlighting their features and peculiarities as well as their presence in the main events of the Iranian history. Most of the religious minorities have lived in Iran for over a millennium under varying degrees of security, prosperity, persecution, or oppression. However, they have been able to preserve their religions, languages, and cultural practices, and often they have drawn strength from them to adapt to new economic, social, and political circumstances.[2] The story of the Iranian religious minorities is intimately connected with the circumstances of Iran as a country. Therefore, insights to Iranian history, policy, and society will be obtained through the prism of the religious minorities' condition.

Since the focus of this research is on freedom of religion and belief and on religious minorities within the Islamic Republic of Iran, the presentation of the different minorities will be organized according to their legal status in the Constitution of the Islamic Republic, which has already been analyzed in the previous chapter. Officially recognized religious minorities -Christians, Jews, and

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[1] Katouzian, Homa. *Sa'di: The Poet of Life, Love and Compassion*. Oxford: Oneworld, 2006.

[2] Mohammad, Hemmasi; Carolyn V. Prorok, "Demographic Changes in Iran's Officially Recognized Religious Minority Populations since the Islamic Revolution". *African and Asian Studies*, 1, no. 2 (2002), p. 64.

Zoroastrians- will be presented in the first paragraph, while the main non-recognized religious minority -Baha'ism- will be presented in the second paragraph.

The overall goals of this examination will be, first, to contextualize historically the more general discussion concerning the rights of religious minorities tackled in the previous section of the research and, secondly, to provide a frame of reference with respect to the interviews with members of religious and belief minorities in Iran that will be reported in the fourth part of this work.

1) Officially Recognized Religious Minorities in the Islamic Republic of Iran

Although the majority of the population of Iran is Shi'a Muslim, not all the people within this group are ethnically Persians. If we assume the language as one of the main distinguishing features of ethnicity, Persian, despite being the official language of the Islamic Republic, is the mother tongue of barely half of the population of Iran only. Other languages spoken by Iranians include Turkish, Kurdish, Baluchi, Luri, Arabic, Gilaki, Assyrian, and Armenian. Of the five dominant non-Muslim religious minorities, three, the Jews, the Zoroastrians, and the Baha'is, have Persian as their mother tongue, while the other two, the Armenians and the Assyrians, speak and hand down their own languages.

Ethnically and linguistically, Turkic-speaking people are the largest minority in Iran, but they cannot be considered a unified collectivity, since they are further divided along religious (Shi'a-Sunni), tribal, sub-ethnic, and local lines. Among the Shi'a Turkic-speaking people, the Azeris are those who have assimilated the most into the Persian milieu.[3]

The only distinction relevant to this part of the research is Muslim versus non-Muslim groups, each with further divisions. The term minority is reserved mainly for the non-Muslim since, in the contextual focus of this research, they are a clear numerical minority in Iran, representing barely 1 percent of the population.[4] According to the Statistical Center of Iran, in the year 1385 (2007-2008 C.E.), the

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[3] Sanasarian Eliz, *Religious Minorities in Iran*, Cambridge University Press, Cambridge, 2000, p. 9
[4] Ivi, p. 2

share of the population belonging to officially recognized religious minorities was divided as such: 19,823 Zoroastrians, 109,415 Christians, and 9,252 Jews. To these numbers, 54,234 people belonging to not specified "others" and 205,317 people who did not state their religious affiliation should be added.[5] These numbers need to be interpreted in light of an historical analysis of the religious minorities' presence in Iran. When these religious minorities settled in Iran? How did their religious communities develop in the course of history until the twentieth century? Which are their features and peculiarities?

1.1) Christians

There are different Christian denominations in Iran. Armenian Orthodox, whose ties are to the Catholicosate of Cilicia, in Lebanon, are the largest group of Christians in Iran. The bulk of Armenian Orthodox belongs to the Apostolic Church, which has archdioceses in the cities of Tehran, Tabriz, and Isfahan. However, a small number of Armenians are Catholics and Protestants. The population is urban, with a small degree of dispersion in villages around the cities of Isfahan and Tabriz, and between Arak and Hamadan. Since the Pahlavi era, they have been politically represented in the Parliament by two deputies, one each from the North and the South. They are the only non-Muslim minority to be represented by two members: the other recognized religious minorities are, in fact, represented by one deputy each.[6] Their religious services, as is the case with the Assyrian and Chaldean Christian communities in Iran, are carried out in their own languages.[7]

"Assyrian" Christians are divided into two branches, the (Catholic) Chaldeans and the (Orthodox) Assyrian Church of the East. They number up to 50,000, according to their own spokesman, and are concentrated in Tehran and around the Western city of Urmieh, where many of them are farmers.[8]

There are few other Christian groups, such as that of the Roman Catholics adhering to the Episcopal Church of Jerusalem and those of the Middle East

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[5] Iran Statistical Yearbook 1386: (2007-2008). Tehran: Statistical Centre of Iran, 2009, p. 108.

[6] Sanasarian, Eliz. *Op. Cit.,* pp. 39-40. See also Chapter 2, Paragraph 4.

[7] Bailey, Betty J., and J. M. Bailey. *Who Are the Christians in the Middle East?* Grand Rapids, Mich: W.B. Eerdmans, 2003, p. 160.

[8] Boyle, Kevin, and Juliet Sheen. *Freedom of Religion and Belief: A World Report.* London: Routledge, 1997, p. 419.

Anglicans and Presbyterians, but they are not officially recognized by the Islamic Republic as religious minorities.

1.1.1) Armenians

It is possible to trace the presence of Armenian communities living in Eastern Anatolia and the outskirts of Mount Ararat back to prehistoric times. The Armenians link with Iran[9] is as old as the country's history, dating back to the foundation of the Persian empire, if not before. From about 500 B.C.E., Greek and Persian sources refer to the land of "Armenia" and its people as the "Armenians."[10] The Achaemenid period, under Cyrus the Great and then Darius I, brought Persians and Armenians so close to one another that Persian was understood and spoken in villages of Western Armenia.[11] After Alexander the Great overthrew the first Persian empire in 330 B.C.E., Armenians developed their kingdom, although they still adhere to Zoroastrianism, which they had encountered during their involuntary association with the Persians.[12] By 70 B.C.E., the Armenian empire stretched from the Caspian Sea to the Mediterranean, a territory that was frequently a focus of power struggle between the Roman and the Parthian empires. When the Parthians were defeated by Ardashir I (226-241 C.E.), founder of the Sassanid dynasty, the development of the Armenian empire was seriously threatened as the new ruler sought to subjugate the Armenians. Although he was not successful, with the growth of the Sassanid empire under Ardashir's successors, control over Armenia was once again disputed by the Persians and the Romans.

During this period, Armenians voluntarily or forcibly migrated to the Persian empire, and most often they settled in Azerbaijan. Historian Houri Berberian

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[9] During ancient times almost every foreigner referred to the entire country as Persia until March 21, 1935, when Reza Shah Pahlavi asked the international community to call the country Iran - a name that means "Land of Aryans," and that the people of Persia, themselves, used to refer to their country since the Sassanid period. This also changed the usage of the names for the Iranian nationality, and the common adjective for citizens of Iran changed from Persian to Iranian. Although the name of Persia was not changed to Iran until 1935, for reasons of clarity and in order to avoid confusion, I will always refer to the country as Iran rather than Persia, or I will refer to the Persian Empire instead. I will refer to the people living in Iran as either Iranians or Persians.

[10] Sanasarian, Eliz. *Op. Cit.,* p. 34.

[11] Chaquèri, Cosroe. *The Armenians of Iran: The Paradoxical Role of a Minority in a Dominant Culture : Articles and Documents*. Cambridge, Mass: Distributed for the Center for Middle Eastern Studies of Harvard University by Harvard University Press, 1998, pp. 1-2.

[12] Ibidem.

stresses how different reasons brought Armenians to migrate: while some of them fled war and its consequences, others were relocated for military and strategic considerations. If some merchants, on the one hand, sought economic opportunities in Iran and left freely, many people, on the other hand, were resettled forcibly to help build or revive local economies. In the fourth century C.E., Sassanid King Shahpur II (309- 379 C.E.), for example, forced thousands of Armenians into Iran, and most of them, probably, assimilated throughout the years.[13]

The Armenian State, in the meanwhile, adopted the Armenian Apostolic creed, an ancient and autocephalous branch of Eastern Christianity, as the official state religion in 314 C.E.. This new religious affiliation, along with the creation of the Armenian alphabet in 404 C.E., enhanced the distinctive identity of the Armenians.[14] However, the adoption of Christianity by the Armenian élite and its subsequent spread among the population was rejected by the Sassanid rulers, who made every effort to suppress the Armenians' freedom of religion and to force them to adopt Persian empire's official religious creed, Zoroastrianism. Under Yazdgard II (438- 457 C.E.), for example, Armenians were forcefully brought to apostatize, and their churches were obligatorily turned into Zoroastrian temples.[15]

Since the Arab invasion of Western Asia in the seventh century, the fate of Armenians has been more closely linked with their Muslim neighbors, both non-Armenian Iranians and Turks. Armenians colonies in Iran, however, grew in size and number after the Mongol conquest of Iran in the thirteenth century, when Armenians settled in Iran voluntarily as well as forcibly, creating new colonies or adding population to the existing ones.[16] During this period, Armenians played a major role in the international trade among the Caspian, Black, and Mediterranean seas. Many Armenian merchants were brought to Iran by the trade routes that crossed the city of Tabriz, the Mongol center in Iranian Azerbaijan.[17] Therefore, the Venetian merchant Marco Polo, traveling through Iran in the 1270s, reports to have

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[13] Berberian, Houri. *Armenians and the Iranian Constitutional Revolution of 1905-1911: The Love for Freedom Has No Fatherland.* Boulder, Colo: Westview Press, 2001, p. 35.
[14] Sanasarian, Eliz. *Op. Cit.,* p. 34.
[15] Chaquèri, Cosroe. *Op. Cit.,* pp. 1-2.
[16] Berberian, Houri. *Op. Cit.,* p. 35.
[17] Bournoutian, George A. *A History of the Armenian People. Vol. 2.* Costa Mesa, Calif: Mazda, 1994. Available at Pars Times online, http://www.parstimes.com/history/armenians.html

come across Armenians in Tabriz.[18] Other Armenian settlements existed in Maragha, Rasht, and Sultaniyeh.[19]

The decisive involvement of the Armenians with modern Iran, however, can be traced back to the advent of the Safavid dynasty (1501-1722 C.E.) and its perpetual military confrontations with the Ottoman empire. The Savafid dynasty chose Twelver Shi'ism as the basis for religious and historical legitimization of its sovereignty. According to historian Vartan Gregorian, aside from the question of legitimacy, the Safavids imposed Shi'ism as a State religion partially in order to differentiate their domains from the Ottoman empire and partially to create a sense of unity among their subjects.[20] Even though the policies of the Safavids towards non-Shiite Muslims and non-Muslims fluctuated between violent theoretical opposition against Sunnis and intolerance and periodic persecution of Zoroastrians and Jews, they had "*a relatively benevolent attitude toward and a comparatively less harsh treatment of Armenians and Assyrians.*"[21]

Intermittently through the sixteenth century, Armenia, Georgia, and the territories constituting present-day Republic of Azerbaijian were the arena of Ottoman and Safavid wars. As a buffer zone for the two contending empires, Armenia served either as a militant borderland or as a battlefield. The intensity and ferocity of the Sunni-Shiite opposition, fought for religious, geopolitical, and economic objectives, was accompanied by the adoption on the part of the two belligerents of policies of deportation of population, plunder, and devastation of villages and towns in an effort to deny human material resources to the conqueror. For instance, when Sultan Salim of the Ottoman empire occupied Tabriz in 1514, he seized goods but also took over three thousand artisan families, a majority of whom were Armenians.[22] At the same time, Safavid ruler Shah 'Abbas I (1587-1629 C.E.) forced tens of thousands of Armenians to migrate from Ottoman and Russian Armenian regions like Yerevan, Kars, Nakhichevan, and Julfa to the Iranian provinces, especially to the Safavid capital, Isfahan.[23] They were also settled in

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[18] Marco Polo, *The Travels*, Trans Ronald Latham. New York: Penguin Books, 1958, p. 57. See also Marco Polo. *Il Milione*. Edited by Daniele Ponchiroli. Torino: G. Einaudi, 1968, p. 22.
[19] Berberian, Houri. *Op. Cit.,* p. 36.
[20] Gregorian, Vartan. "Minorities of Isfahan: the Armenian Community of Isfahan 1587-1722." *Iranian Studies*. 7.4 (1974), p. 655. See also Donini, Pier G. *Il Mondo Arabo-Islamico*. Roma: Lavoro, 1995.
[21] Ivi, p. 654.
[22] Ivi, p. 657.
[23] Berberian, Houri. *Op. Cit.,* p. 34.

Tabriz, Shiraz, and the Caspian littoral.[24] In 1603 Shah 'Abbas I, violating the peace treaty of 1590 with the Ottoman empire, invaded Ottoman domains. He entered Azerbaijan and conquered Tabriz and Nakhichevan. The inhabitants of the Armenian city of Julfa, located on the left bank of the Aras river, welcomed the Shah with much enthusiasm. According to Vartan Gregorian, they handed him the silver keys of the city, and gave him an impressive reception: "*a procession of the clergy, nobility, and notables of the city, all dressed finely for the occasion, received him with candles, incense, religious, and secular songs*".[25] The city of Julfa had emerged as a major commercial center during the second half of the sixteenth century. It had an estimated population of ten to twelve thousand people, some two thousand houses, and seven churches. It was located on the overland trade route that linked the Transcaucasus to Azerbaijan, hence the Ottoman empire, and through the Caspian or Khorasan to Central Asia. The sphere of its commercial and financial transactions reached India, Venice, and other cities of Italy as well as other parts of Iran itself, and the Ottoman empire. Therefore, the city represented an important center for East-West trade, and many of the merchants of Julfa served as representatives of brokers of various European and other commercial firms and companies. According to Vartan Gregorian, it was this appealing combination of wealth of the Julfa merchants and their international position that prompted Shah 'Abbas I to transplant all the Armenians of Julfa from their homeland to Isfahan. Shah 'Abbas was determined not to let the wealth of Julfa and its dominant position in overland trade be controlled by the Ottomans.[26] Therefore, Shah 'Abbas' aim in this mass deportation of Armenians was twofold: whereas the immediate military consideration was to de-populate the area before the advance of the Ottoman armies, he had also a more far-reaching plan. By resettling the Armenian population, among which there were highly skilled craftsmen and merchants,[27] he hoped to advance the country's economy, especially through the internationally connected merchant class of Julfa.[28] According to Vartan Gregorian, by relocating the Armenian merchants who carried on the trade between Iran, Central Asia, India, and the Mediterranean and European world, Shah 'Abbas sought to change the long established trade routes so that they no longer passed through the Ottoman empire

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[24] Moreen, Vera B. "The Status of Religious Minorities in Safavid Iran 1617-61." *Journal of Near Eastern Studies.* 40.2 (1981), p. 129.

[25] Gregorian, Vartan. *Op. Cit.,* pp. 659-660.

[26] Ibidem.

[27] Chaquèri, Cosroe. *Op. Cit.,* p. 3.

[28] Berberian, Houri. *Op. Cit.,* p. 36.

and went exclusively through Iran, thus transforming Isfahan into a significant trade center. In addition, Shah 'Abbas sought to control the silk industry through the Armenian merchants under his protection and control, who would compete against European merchants.[29]

The forced migrations began in 1603 and lasted until the 1620s. As mentioned above, Shah 'Abbas I ordered the deportation of tens of thousands of Armenians from areas he had captured in war against the Ottomans, such as the areas of Yerevan, Kars, Nakhijevan, and Julfa. However, the total number of Armenians moved from Ottoman Armenian communities is unclear. The French traveler Jean-Baptiste Tavernier placed the number of Armenians brought from these areas at 20,000 families (around 80,000-100,000 people.)[30]

Shah 'Abbas ordered the Safavid armies to take special care of Julfa Armenians, who were to play a major economic role once they reached Isfahan. Shah 'Abbas, while easing their travel, also ordered the complete destruction of the city of Julfa in order to destroy at the same time any hopes amongst the inhabitants of the city that their deportation might have been a temporary one.[31] While Julfa Armenians received the special assistance of Safavid forces, the rest of the deportees had to survive on their own. Historian George Bournoutian recounts how many Armenians drowned in the attempt to cross the Aras River, while those who made it across the river were forced to spend the harsh winter in the Azerbaijan countryside and more people died from exposure and starvation.[32] Most of the Julfa Armenians, who had spent the winter in Tabriz, settled in Isfahan where Shah 'Abbas took a personal interest in their fate. In 1605 he established them in a special suburb of Isfahan near the Zayandah Rud River, and from 1606 on he allowed them to begin building a small township of their own bearing the name of New Julfa. Many Armenians remained in Tabriz and surrounding areas or settled in Qazvin, Hamadan, Gilan, and other regions while tens of thousands were sent to Mazandaran. The Armenians of

[29] Gregorian, Vartan. *Op. Cit.,* p. 663.

[30] Tavernier, Jean-Baptiste. *Les Six Voyages de Turquie et de Perse. Vol 2.* Ed. Stefanos, Yerasimos. Paris: Maspero, 1981, p. 91.

[31] Gregorian, Vartan. *Op. Cit.,* p. 662. See also Hovannisian, Richard G. *The Armenian People from Ancient to Modern Times. Vol. 2.* New York: St. Martin's Press, 1997, pp. 19-21.

[32] Bournoutian, George. "The Armenian Community of Isfahan in the Seventeenth Century." *Armenian Review*. 24. 4 (Winter 1971), p. 32. See also Edmund, Herzig. "The Deportation of the Armenians in 1604-1605 and Europe's Myth of Shah 'Abbas I," in *Persian and Islamic Studies in Honour of P.W. Avery*, ed. Charles Melville. Cambridge: University of Cambridge Centre of Middle East Studies. 1990, pp. 59-71.

New Julfa received special privileges from Shah 'Abbas in exchange of services they rendered the Safavid State and economy. They possessed complete religious freedom, including the right to construct their own churches or to hold public religious processions and ring church bells, rights that no other Christian community in Iran could hold. In addition they had their own mayor, courts, judges, the right to buy and sell property, and no restrictions on clothing, again unlike other non-Muslim communities in Iran.[33] Aided by loans from the Shah, the Armenian community of New Julfa attained new heights of prosperity in a short time. The community was autonomous and paid the Shah an annual tax for their privileges. Most of the time the Shah was extremely friendly towards them and often visited the more prominent members of the community. He went so far as to participate in some of the religious festivals of the Armenians. The benefits were mutual, and for a while the position of the Armenians seemed very secure. Many of them also converted to Islam, attracted by the political and economic advantages offered them by the new faith.[34]

The New Julfa Armenian community played a significant role in the domestic and international commerce of Iran, taking advantage of its contacts and ties within and outside the country, in Europe and Russia. Tabriz, for instance, with its strategic position near the border of Iran and the Russian Empire, gained a certain amount of prosperity by maintaining commercial ties between the two regions.[35] The Armenian merchants dominated the silk trade and held almost complete control over the silk and cloth market.[36] Moreover, in the seventeenth century, the towns of New Julfa and Tabriz became cultural and intellectual centers for the Iranian-Armenian community.[37] The Armenians of New Julfa formed a separate ecclesiastical unit under their own bishop, appointed by Etchimiadzin, which had jurisdiction over all Armenians of Iran and Iraq. A school was opened in New Julfa for the sons of the *kolas*, or notables, as well as for some of the talented boys from

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[33] Berberian, Houri. *Op. Cit.,* pp. 36-37. See also Gregorian, Vartan. *Op. Cit.,* p. 662, and Hovannisian, Richard G. *Op. Cit.,* pp. 19-21.

[34] Moreen, Vera B. *Op. Cit.,* p. 129.

[35] Berberian, Houri. *Op. Cit.,* p. 37.

[36] For further information on the New Julfa Armenian merchants, see Herzig, Edmund. *The Armenian Merchants of New Julfa, Isfahan: A Study in Pre-Modern Asian Trade*. Ph.D. dissertation, University of Manchestern, 1991. See also McCabe, Ina Baghdiantz. *The Shah's Silk for Europe's Silver: The Eurasian Trade of the Julfa Armenians in Safavid Iran and India (1530-1750)*. Atlanta, Ga: Scholars Press, 1999.

[37] Berberian, Houri. "Traversing Boundaries and Selves: Iranian-Armenian Identities During the Iranian Constitutional Revolution." *Comparative Studies of South Asia, Africa and the Middle East*. 25.2 (2005), p. 282.

less prominent Armenian families. The future *catholicos*, or head of the Armenian Church, Hakob Jughaetsi (1655-1680 C.E.), was among its graduates, as were a number of historians and translators. One graduate from the school, Archbishop Khachatur Kesaratsi, was sent to Italy to learn the art of printing and brought back the first printing press in Iran in 1636. The first printed book in Iran was an Armenian translation of the Book of Psalms, *Saghmos*, produced in 1638. The historian George Bournoutian stresses how, prior to the seventeenth century, Armenian merchants had for approximately five hundred years conveyed Eastern technology to Europe. From the seventeenth century onwards, however, beginning with the New Julfa merchants, the Armenians were one of the primary channels for the introduction of Western technology and culture to Asia.[38]

The situation for the New Julfa community declined beginning in the last quarter of the seventeenth century since there was no attempt by Shah 'Abbas' successors to institutionalize and update the policies that had been geared to generate and sustain the commercial and economic health of the Persian Empire. Moreover, the absence of an Iranian merchant marine meant that the Armenian merchants of New Julfa, over time, could not keep up with the large English or Dutch joint-stock venture companies such as the East India Company, which, by the mid-eighteenth century, took over much of the trade of the region.[39] Therefore, at a time when European powers and European East Indian companies were embarking upon major offences to capture the Persian market, the Safavid rulers 'Abbas II (1642-1666 C.E.), Shah Solayman (1666-1694 C.E.), and Shah Sultan Hosein (1694-1722 C.E.) were neither aware of the challenge nor ready to meet it. Instead of a continued partnership, these latter two rulers embarked upon policies of forced conversion, discriminatory measures, and open persecution of Armenians[40], making deals with European merchants and firms at the expense of their own subjects, using Armenians as scapegoats for such things as crop failure and drought, encouraging the application of the law of apostasy whereby, if a Christian turned Muslim, he could claim the property of his relatives. Insecurity at home also meant that Armenians would look to Catholic Europe and especially Orthodox Russia for protection or aid. On the eve of the Afghan invasion in 1722, New Julfa was still

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[38] Bournoutian, George A. *A History of the Armenian People...Cit.*
[39] Ibidem.
[40] Forand, Paul G. "Accounts of Western Travelers Concerning the Role of Armenians and Georgians in 16th-Century Iran." *The Muslim World.* 65.4 (1975), pp. 264-278.

performing, but in a declining way, its traditional role for the trade of the Safavid Empire without the benefit, however, of the dynamism, confidence, and visionary plans of Shah 'Abbas.[41] Therefore, Armenians suffered from persecution, forced conversion, and religious fanaticism, on the one hand, and heavy taxation in addition to a new situation whereby merchants were no longer protected against European competition, on the other hand.

This combination of forces, in addition to the weakening of the central power, incompetence of later Safavid rulers, and ensuing rebellions, led to the collapse of the Safavid dynasty. Afghan invaders overtook and destroyed the capital, Isfahan, in 1722. New Julfa became the target of destruction and pillage at the same time, causing many Armenians to flee Iran.[42] The Afghan invasion left in New Julfa no more than 500 families of the 3,500 originally living under Shah 'Abbas II. The Julfa Armenians dispersed to Russia, Poland, Transylvania, Italy, Gujarat in India, Baghdad, and Basra, putting an end to the city's prosperity.[43]

The fall of the Safavids and the Afghan occupation of Isfahan and New Julfa, however, did not end the Armenian presence in Iran. An unspecified number of Armenian farmers and artisans, along with some merchants, remained. Large Armenian communities continued to live in Isfahan, New Julfa, and a number of Iranian cities.

The fall of the Safavids encouraged Russian Tsar Peter the Great to invade the Caspian coastal regions, while the Ottomans, braking the peace of Zuhab, invaded Eastern Armenia and Eastern Georgia in 1723. By 1736, however, a new ruler, Nader Shah (1736-1747 C.E.) and a new dynasty, the Afshars, restored order in Iran, convinced the Russians to withdraw, and pushed the Ottomans back to the boundaries of 1639. Rewarding the Armenian *meliks*, nobles, for their stand against the Ottomans, the Shah exempted them from tribute and recognized their autonomy. Furthermore, *Catholicos* Abraham Kretatsi (1734-1737 C.E.), who had become friend with the Shah, was a guest of honor at Nader's coronation.[44] This situation, however, did not last long, for soon Nader Shah increased the taxes. When he died, historic Armenia fell into anarchy, and a permanent Russian influence took root on Iran's

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[41] Gregorian, Vartan. *Op. Cit.,* pp. 675-676.
[42] Berberian, Houri. *Armenians and the Iranian Constitutional Revolution…Cit.,* p. 37.
[43] Chaquèri, Cosroe. *Op. Cit.,* p. 4.
[44] Bournoutian, George A. *A History of the Armenian People…Cit.*

northern border.[45] By the end of the eighteenth century, when the Qajar tribe under Agha Mohammed Khan finally gained the upper hand over its rivals, approximately 100,000 Armenians, out of a former community of some 400,000, living primarily in Isfahan, New Julfa, Shiraz, Maku, Khoi, Tabriz, and Hamadan, remained in Iran.[46]

During the first three decades of the nineteenth century, Russia annexed nearly all of Persian territory north of the Aras River, including its Armenian enclave. Through bilateral treaties between Iran, Ottoman Turkey, and Russia, Armenian lands were reshuffled and Armenians residing in some areas were forced to migrate.[47] The loss of the entire Transcaucasian region, following the Russo-Persian wars (1804-13 and 1826-28) placed a large number of Armenian-Iranians under Russian rule. The loss of the Armenian (and other Caucasian) provinces by Iran to Russia inaugurated a new era for the Armenian community in Iran, who found, nevertheless, systematic protection under the Qajars' dynasty. According to historian Cosroe Chaquèri, however, this protection –as in the case of Shah 'Abbas and Nader Shah- should not be considered as a genuine concern for their subjects but more as a means of keeping the Ottomans and the Russians at bay.[48] At the dawn of the nineteenth century the Armenian population of Iran was divided into two groups: those who lived South of the Aras River, and those who resided in Transcaucasia, a region that had been, for the most part, under Iranian control since the sixteenth century. Armenians in Iran still comprised the remnants of the once large Armenian community displaced and re-settled by Shah 'Abbas on the eve of the seventeenth century.[49]

Although Armenians in Iran excelled as small artisans, were involved in international trade, and were basically integrated into the modern Iranian economy, they never dominated the economic sphere of the country. Similarly, their political role remained limited. During Qajar rule (1785-1925 C.E.), however, Armenian ambassadors were dispatched to Europe and Armenians played an active role in the

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[45] Chaquèri, Cosroe. *Op. Cit.,* p. 4.
[46] Bournoutian, A. George. "Armenians in Nineteenth-Century Iran." In Chaquèri, Cosroe. *Op. Cit.,* pp. 54-55.
[47] Sanasarian, Eliz. *Op. Cit.,* p. 35. See also Bournoutian, George A. *A History of the Armenian People.* Costa Mesa, Calif: Mazda Publishers, 1994.
[48] Chaquèri, Cosroe. *Op. Cit.,* p. 4.
[49] Bournoutian, A. George. "Armenians in Nineteenth-Century…" Cit., pp. 54-55.

liberal, left, and constitutional movements in Iran that would thrive in the early twentieth century.[50]

At the start of the nineteenth century, the Qajar dynasty, beginning with Fath 'Ali Shah (1797-1834 C.E.), not only gradually unified Iran but was also responsible for the eventual revival and stabilization of the Armenian community in Isfahan and Tabriz, as well as the creation of a new and important Armenian community in Tehran. Armenian merchants once again became active in major urban centers of Iran. The revival blossomed when 'Abbas Mirza, the heir to the throne and governor of Azerbaijan, granted the Iranian Armenians special privileges to counter the consequences of the Treaty of Torkmanchay that ended the war of 1826-1828 between Russia and Iran. Article XV of the treaty made provision for the mass emigration of the Iranian Armenians to the newly created Russian Armenian province across the Aras river.[51] Consequently, between 35,000 and 45,000 Armenians left Iran, mostly from towns in Azerbaijan and Isfahan, while peasants stayed behind, amounting for a population of more than 70,000 Armenians. If these figures are accurate, the number of Armenians in Iran before 1828, as we said above, reached more than 100,000.[52] 'Abbas Mirza protested this loss of revenue and skilled people and, in order to stop the exodus, made major concessions to the Armenian merchants of Tabriz and granted special privileges to the Armenian clergy in Iran.

Fath 'Ali Shah, at the same time, extended this benevolent policy to Armenians living in the South and in 1832 issued a decree in which he instructed the governor of Isfahan to take special care of the Armenians, to refer all disputes among them to their church leaders, and to exempt the Armenian archbishop from taxes.

In 1844, Mohammed Shah (1834-1848 C.E.), following a complaint from Archbishop Hovhannes of New Julfa, issued a decree in which he ordered the restoration of property usurped from the Armenian church there.

During the long reign of Naser ad-Din Shah (1848-1896 C.E.), a new Armenian school in New Julfa was constructed, and in 1858 the Shah decreed that Armenian inheritance laws should be observed by the State when dealing with the Armenian

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[50] Sanasarian, Eliz. *Op. Cit.,* p. 38
[51] See Atkin, Muriel. *Russia and Iran, 1780-1828.* Minneapolis: University of Minnesota Press, 1980, pp. 148-149.
[52] Berberian, Houri. *Armenians and the Iranian Constitutional Revolution...Cit.,* p. 38.

community. By 1879, the Armenians of Iran had become sufficiently important for Naser ad-Din Shah to decree that an annual subsidy should be paid to the Armenian diocese in New Julfa. The first Armenian periodical and a history of the Armenians of New Julfa were published in 1880.[53] Armenian Iranian businessmen were well entrenched and prominent in Iran's new commerce. Armenian Iranian merchants opened new trading houses in the Caspian and Persian Gulf regions; furthermore, royal patronage and Armenian contacts abroad enabled them, despite the loss of the powerful position they had once held in seventeenth century, to continue to play a crucial part in Iranian trade with India, Russia, and Europe.[54] Dried fruit, leather, and carpets were exported, and machinery, glassware, and cloth were imported. The growth of Iranian foreign trade as a whole also added to the employment possibilities of Iranian-Armenians in the increasing number of foreign commercial, banking, and transport firms in Iran. Royal sponsorship brought Armenians to Tehran, and Nasr al-Din Shah, taking advantage of their linguistic abilities and foreign contacts, send them as envoys to Europe. Mirza Davoud, for example, was an Armenian Iranian who, for his knowledge of Europe, was dispatched in July 1850 by Naser ad-Din Shah's chancellor Amir Kabir to Austria and Prussia to select six instructors in different fields for the modern polytechnic school the chancellor was constructing, the Dar al-Fonoun. He was also commissioned to purchase for the Iranian government a few ships and textile factories, as well as to hire a few masters for the textile factories. Naser ad-Din Shah's reforming chancellor Amir Kabir even formed an Armenian military unit from among the residents of Salmas and Urmia in 1851.[55]

Another Armenian, Ali Asghar Khan Atabak Amin al-Soltan, was appointed *Vazir A'zam* (chancellor) in 1885 and then served as *Sadr-A'zam* (minister) between 1895 and November 1896. He became *Sadr-A'zam* again in July 1898 under Mozaffar ad-Din Shah (1896-1907 C.E.) and in May 1907 under Mohammad Ali Shah (1907-1909 C.E.). He was the most controversial minister in Iranian politics prior to the Constitutional Revolution and died at the hands of revolutionaries in 1907.[56] Some other prominent Armenian-Iranians, like Mirza Malkum Khan, David Khan Melik Shahnazar, and Hovhannes Khan Maschian were responsible for the introduction of

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[53] Bournoutian, A. George. "Armenians in Nineteenth-Century…" Cit., pp. 55-56.
[54] Ivi, p. 57.
[55] See Tsadik, Daniel. *Between Foreigners and Shi'is: Nineteenth-century Iran and Its Jewish Minority*. Stanford, Calif: Stanford University Press, 2007, pp. 43-44.
[56] Chaquèri, Cosroe. *Op. Cit.,* pp. 6-8.

Freemasonry, Western political thought, and technological innovations into Iran. Armenian tailors and jewelers introduced European fashions, and Armenian photographers were among the first in that profession. Armenians were also among the first Western-style painters and musicians. The Armenians in Iranian Azerbaijan were soon exposed to the national and political ideas of the Armenians in Transcaucasia and, as it will be seen, were to play a significant role in the history of the early twentieth-century Iran.[57] The Armenian printers, whose tradition started in the seventeenth century with the printing of the first book in Iran, became active again in the late nineteenth century when they received a printing press from the Armenians of India. Although that press remained generally unused, another press from the Armenians of Baku was used extensively in the early twentieth century, when Armenians of Iran took part in the Constitutional Revolution of 1906 to 1911.[58] By the latter part of the nineteenth century, Armenians in Iran had slowly begun to regain some of their former economic power, and Armenian emigration to Russia, which had already slowed down significantly, virtually ceased.[59]

From these different accounts, it could be inferred that Armenians enjoyed a relatively protected position under the Qajars. The state protection afforded the Armenian community under the Qajars, however, did not insulate them from periodic outbursts of violence by some clerics and their followers, who had "*vested interests in driving Armenians and other religious minorities out of their businesses.*"[60] Chaquèri, for example, reports how, after a drought in 1815, the Sheikh al-Islam of Tehran gathered some of his followers and succeeded in persuading them that the calamity represented an expression of God's wrath against those who frequented the Armenian taverns in the city. Therefore, he incited them to destroy the "impious taverns" to appease God's wrath. Under the leadership of the *sheikh*, the mob destroyed not only the taverns but also the houses of the tavern owners and an Armenian church. Once informed of the situation, the Shah ordered that the *sheikh* and his men supporters be arrested and brought before him. Fearful of the Shah's punishment, the *sheikh* took refuge at the Shrine of Shah Abd al-Azim. Some people responsible for the riots were, nevertheless, arrested, punished, and made to pay a

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[57] Bournoutian, George A. *A History of the Armenian People…Cit.*
[58] Bournoutian, A. George. "Armenians in Nineteenth-Century…" Cit., p. 57.
[59] Ivi, p. 59.
[60] Chaquèri, Cosroe. *Op. Cit.,* pp. 6-8.

fine for the damages they had caused.[61] In the early 1890s more anti-Christian riots were provoked by religious fanatics in Isfahan and Shiraz. In addition, Armenian shopkeepers of Tabriz were also targets of harassment in the early 1900s, on the eve of the Constitutional Revolution.[62]

During the second half of the nineteenth century, the Armenians South of the Aras River fell into two groups: the Armenians of Southern Iran, primarily in Isfahan and Shiraz, with their headquarters in New Julfa, who were not only in contact with the Armenians of India, but whose diocese occasionally claimed jurisdiction over the Indian-Armenian churches. This group was influenced by the strong presence of British culture in India and Southern Iran. The second group was composed by the Armenians of Northern Iran, of those living in Tehran, Tabriz, Khoi, Maku, Salmas, Urmia, Arasbaran, Hamadan, and Arak, where contacts with Armenians in Baku and Tiflis as well as Russia had exposed some of them to Russian, French, and German cultural influences.[63]

Different factors existed within Iran to serve as a foundation for Armenian participation in the Iranian Constitutional Revolution. As recalled above, the Armenian Iranian community had, at the least, a history of a few hundred years. Beginning in the seventeenth century, the towns of New Julfa and Tabriz became cultural and intellectual centers for the Iranian Armenian community. But more importantly, beginning in the mid-nineteenth century, the Armenian Iranian communities throughout Azerbaijan and Isfahan went through a major transition in terms of education and politicization. The creation of secular schools for boys and girls, partly in response to missionary activity, allowed for the learning of a greater number of Armenians. These students were very much influenced by their teachers, who arrived in large part from the Caucasus. According to Houri Berberian, these Caucasian Armenian teachers not only taught courses in the school curriculum but, as intellectuals and political activists, imparted a sense of political consciousness to their students. By the early twentieth century a segment of the Iranian Armenian community had been thus exposed to Caucasian intellectual and political influences. Furthermore, the proximity of the Armenians in Iranian Azerbaijan to Transcaucasia and Eastern Anatolia brought them under the influence of the political activities of

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[61] Ivi, p. 8.
[62] Ivi, p. 9.
[63] Bournoutian, A. George. "Armenians in Nineteenth-Century…" Cit., p. 58.

Russian and Turkish Armenians. Caucasian members of the Armenian political parties, especially the *Dashnaktsutiun* and the *Hnchakian* parties, began operations in Iran in the late nineteenth century.[64] In this period, a significant number of Armenians came to Iran from the cities of Tiflis, Baku, and other cities and towns in the Caucasus. Since the latter half of the nineteenth century, these Armenians had been identified by the populace and referred to themselves as *fedayis* –a term borrowed from Islam meaning "those who sacrifice themselves." *Fedayis* crossed over the Northwestern Iranian border from Caucasus, trained in centers such as Tabriz and Salmas, and planned expeditions into Ottoman Armenian provinces. In fact, the three major Armenian political parties –the *Armenakan* party, followed by the above-mentioned *Hnchakian* party and the *Dashnaktsutiun* party- used Iran as a launching ground for operations in Ottoman Armenian provinces. There, they secretly organized small military groups, established party branches, and disseminated party ideologies, all with the purpose of "liberating", to one degree or another, Ottoman Armenians.

In 1906, in the wake of the Russo-Japanese War of 1904-1905 and the Russian Revolution of 1905 that greatly influenced the revolutionary movement, many Armenians joined Iranian liberals and revolutionaries in their demand of a Constitution in Iran. Armenian political parties such as the *Hnchakian*, but especially the *Dashnaktsutiun*, as well as individual Armenians collaborated with Iranian and Caucasian constitutionalists and revolutionaries to influence the direction of the movement toward greater democracy and to safeguard gains already achieved.[65] Although Mozaffar ad-Din Shah signed the document, his successor Mohammad 'Ali Shah with the help of the Cossack Brigade carried out a coup d'état and dissolved the first *Majlis,* (or Parliament). It was only in 1909 that the revolutionaries succeeded in forcing the crown to give up some of its prerogatives. Armenian military units under the command of leaders such as Yeprem Khan and Keri had an important role in the Iranian Constitutional Movement.[66] Yeprom Khan, for example, joined Muslim military officers to liberate Tehran and depose Mohammad Ali Shah in 1909. The

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[64] Ivi, pp. 52-55.
[65] Berberian, Houri. "Traversing Boundaries and Selves…" Cit., pp. 284-285.
[66] Bournoutian, George A. *A History of the Armenian People…Cit.*

new Constitution recognized most of the minorities as part of the Iranian nation and bestowed upon them unprecedented civil rights.[67]

According to Eugène Aubin, there were some 65,000 Armenians in Iran at the time of the Constitutional Revolution.[68] They formed three major groups: those of Azerbaijan, who had inhabited the area for many centuries and had close relations with the Armenians of the south Caucasus and Eastern Anatolia; those of the Isfahan region, who were the descendants of artisans and merchants imported by Shah 'Abbas in the seventeenth century; and those of Tehran, many of whom had only recently emigrated from the Ottoman Empire and Russia. But there were also Armenian merchants and artisans in all the urban centers of Iran. The Armenians of the cities, on the whole, enjoyed a relatively high standard of living. Many were educated at foreign missionary schools, learned languages and engaged in international trade.[69]

The establishment of the Pahlavi dynasty in the mid-1920s began a new era for the Armenians. On the one hand, the modernization efforts of Reza Shah (1925-1941 C.E.), continued by his son Mohammad Reza (1941-1979 C.E.), gave the Armenians ample opportunities for advancement. They were assigned cultural and religious autonomy in communal affairs and were allowed one additional deputy to the *Majlis*. Moreover, Armenian historic contacts with the West and their linguistic abilities gave them an advantage over the native Iranians. They gained, therefore, important positions in the arts and sciences, within the Iranian Oil Company, and in other professions such as tailoring, shoemaking, photography, auto-mechanics, as well as the managing of cafes and restaurants.[70] On the other hand, however, Reza Shah closed down Armenians schools in the years 1938-1939 and threatened their internal autonomy. Moreover, the Armenians were denied government jobs and employment, or were forced to resign their government positions. These measures prompted some of them to migrate.[71] Moreover, in the 1930s Reza Shah decided to persianize the ancient Armenian names of many villages in Iranian Azerbaijan. Historian Eliz Sanasarian considers both the closure of minority schools and the

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[67] Ghods, M. R. *Iran in the Twentieth Century: A Political History*. Boulder: L. Rienner Publishers, 1989, pp. 41-43.
[68] Aubin, Eugène. *La Perse d'aujourd'hui: Iran, Mésopotamie*. Paris: Colin, 1908, p. 177.
[69] Oberling, Pierre. "The Role of Religious Minorities in the Persian Revolution, 1906-1912." *Journal of Asian History.* 12 (1978), p. 24.
[70] Bournoutian, George A. *A History of the Armenian People...Cit.*
[71] Chaquèri, Cosroe. *Op. Cit.,* p. 11.

changes in the names of villages, cities, streets, etc. as part of Reza Shah's general policy framework designed to strengthen the State and diminish foreign dependence.[72]

The schools were allowed to reopen in 1943, but government directives prohibited the use of Armenian as the language of instruction except in religion, for which eight to ten hours per week were provided. The Armenian language suffered as a result; it was still the major, and often the only, language of oral communication in the community, but awareness of Armenian history and culture, as well as the number of qualified teachers in these subjects, generally declined.[73]

World War II gave the Armenians new opportunities to increase their economic power. Since the Allies decided to use Iran as a bridge to Russia, Western arms and supplies were shipped through Iran and Armenians, with their knowledge of Russian, played a major role in this endeavor. For the following quarter of the century Armenian fortunes rose in Iran, and Tehran, Tabriz, and Isfahan became major centers of Armenian life. Armenian churches, schools, cultural centers, sports clubs and associations flourished and Armenians had their own two deputies in the parliament, thirty churches and some four dozen schools and libraries served the needs of the community. Armenian presses published numerous books, journals, periodicals, and newspapers, such as "The Wave" (*Alik*).[74]

During the rule of Mohammad Reza Shah, Armenian internal autonomy was restored and a strong State prevented the arbitrary exercise of power by local clergy. The general policy of economic development, modernization, and Westernization furthered the communal life and the socioeconomic condition of religious minorities. Armenians were active in most sectors except from politics and the military.[75] By the mid-1960s the Armenian population had grown to over 100,000 people, and by 1971 it was estimated at 108,400. Most Armenian-Iranians lived in Northeastern Iran (Tabriz), central Iran (Tehran, New Julfa), Qazvin, Hamadan, and the Caspian region.

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[72] Sanasarian, Eliz. *Op. Cit.,* p. 38
[73] Amurian, Andre and M. Kasheff. "Armenians of Modern Iran," *Encyclopaedia Iranica*, ed. Ehsan Yarshater. London & New York: Routledge & Kegan Paul, 1978, p. 479.
[74] Bournoutian, George A. *A History of the Armenian People...Cit.*
[75] Sanasarian, Eliz. *Op. Cit.,* p. 39

The Islamic Revolution of 1979, Ayatollah Khomeini's restrictions, the Iran-Iraq War, and the economic problems resulting from Iran's isolation prompted the exodus of more than 100,000 Armenians,[76] particularly to the United States.[77]

1.1.2) Assyrians and Chaldeans

Assyrians and Chaldeans, according to Eliz Sanasarian, are the most complex non-Muslim religious minority to study historically.[78] The major difficulty stems from their many denominations. Most Christians, in fact, are usually referred to as Assyrians, and Assyrian Roman Catholics are specifically referred to as Chaldeans. Moreover, Assyrians are also referred to as Nestorians to distinguish them from Chaldeans. With the advent of Western missionaries in the nineteenth century, Assyrians started to be referred to as Presbyterian, Roman Catholic, or Russian Orthodox as well. This confusion derives from the premise of whether the Assyrians should be considered an ethnic group or only a religious community. The problem of defining the ethnic identity of Assyrians is related to the convoluted and complex history of their social and political evolution. Anthropologist Arian Ishaya, for example, sees Assyrians as a distinct ethnic group which has resided in the lands around the present Irano-Turkish borders from at least the first century C.E. and maybe even from an earlier time. From this ethnicity-centered point of view, then, Assyrians would be divided along various denominations including the Nestorian Church, its Chaldean offshoot, the Russian Orthodox Church, various Protestant churches, and the Jacobite Church.[79] However, these would be merely confessional divisions and would not impact on the social and cultural unity of the ethnic identity of the Assyrians. For the purposes of this research, however, I am going to explore only the historic presence in Iran of the two recognized Christian communities within the Constitution of the Islamic Republic of Iran: the Assyrian Church of the East and the Chaldean Church. I will outline their characteristics and try to shed some light on the confusion regarding their different denominations.

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[76] Bournoutian, George A. *A History of the Armenian People...Cit.*
[77] Chaquèri, Cosroe. *Op. Cit.,* p. 11.
[78] Sanasarian, Eliz. *Op. Cit.,* pp. 40-41
[79] Ishaya, Arian B. *The Role of Minorities in the State: History of the Assyrian Experience*. Winnipeg, Man., Canada: Dept. of Anthropology, University of Manitoba, 1977, p. 6. See also Asmussen, J. P. "Christian in Iran" in *The Cambridge History of Iran Vol. 3*. Cambridge: Cambridge University Press, 1968, pp. 924-928.

The Assyrian Church of the East is one of the oldest Christian communities, tracing its origins back to the witness of St. Thomas and other apostles in ancient Mesopotamia.[80] During the Parthian Empire (247 B.C.E. - 224 C.E.) there were many instances of harassment and persecution of Christians but there were no systematic campaigns against them. These were to come later, during the Sassanid period, beginning in the middle of the third century and continuing up to the Islamic invasions in the seventh century. The Sassanids declared Zoroastrianism the state religion and, for the first time, the king assumed the title of *Shahinshah* (or King of kings), a title used right up to the Islamic Revolution of 1979. Poor political relations between the Byzantine and the Sassanid Empires in the fourth and fifth centuries produced dire consequences for the Church of the East. In the early fourth century (between 300 and 310 C.E.), bishops of the Assyrian Church were organized under a *catholicos* who was Bishop of the Persian royal capital, Seleucia-Ctesiphon. They were deemed as collaborators with Christians in the Roman Empire, especially after the so-called "conversion" of Constantine and the Edict of Milan in 313 C.E.. It was also around this time that Constantine provocatively ordered that the symbol of the Christian cross become emblazoned on the battle standards of the Roman armies.[81] The most difficult time for Christians under Sassanid rule was during the era of King Shahpur II (309-379 C.E.). During Shapur II's rule, Christians were, in fact, seen in a negative political light as a potential fifth-column for the Romans. Since Shapur II was fighting the Romans, who were Christians, he equated Christianity with treason.[82] In 325 C.E., the same year that Christianity was proclaimed the official religion of the Roman Empire, Constantine sent the Persian King Shapur II a letter in which he commended the Christians of the Persian Empire into his care.[83] This proclamation did not create any tensions as long as there was peace between the two Empires but, in 337, the year of Constantine's death, war broke out and this signaled the beginning of a systematic persecution against the Christians, accused of being sympathizers and agents of the Roman Empire. The long reign of Shapur II, and especially in its last 40 years, was a period of persecution, when the Sassanid Empire attempted to exterminate the Assyrian Church within its borders. Extra

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[80] Bailey, Betty J. *Op. Cit.,* p. 61.

[81] Van Gorder, A. Christian. *Christianity in Persia and the Status of Non-Muslims in Iran*. Lanham: Lexington Books, 2010, p. 31.

[82] Young, William G. *Patriarch, Shah, and Caliph: A Study of the Relationships of the Church of the East with the Sassanid Empire and the Early Caliphates Up to 820 A.D., with Special Reference to Available Translated Syriac Sources*. Rawalpindi: Christian Study Centre, 1974, p. 25.

[83] Khanbaghi, Aptin. *The Fire, the Star and the Cross: Minority Religions in Medieval and Early Modern Iran*. London: I.B. Tauris, 2006, p. 10.

taxes were charged on them and, when they could not pay, their property was expropriated and they were imprisoned. When even this measures were not effective churches were demolished and bishops, priests, and deacons were arrested, tortured, and killed.[84]

The persecution of Assyrians continued until the time of the Emperor Yazdgard I (399-421 C.E.) who, first, concluded a treaty of peace with the Roman Empire and, secondly, issued, in the year 410, an "Edict of Toleration" for the Christians in his Empire. Particularly influent for the recognition of Christianity in Iran was Marutha, the Bishop of Maipherqat. Apart from being a good politician, it is reported that Marutha was a skilful physician, and had cured Yazdgird I on at least one occasion.[85] This is one of the first references to a Christian acting as a court physician in Iran: such position would be dominated thereafter by Christians even after the Arab invasion. Physicians were highly influential at court and were thus able to intervene on behalf of their coreligionists.[86] Motivated by a desire to resolve the ongoing difficulties occasioned by the Church of the East's putative relationship to the West, a Synod was called in 424.[87] By canonical decree, the Assyrian bishops proclaimed the Church of the East to be administratively autocephalous from the "Western" bishops, and enhanced the power and dignity of the *catholicos*, adding them the title of "Patriarch." This decision of the Synod, according to historian William Young, was a necessary step in the development of the Church of the East: "*The Sassanid Empire was independent of the Roman Empire, and it was appropriate that the Church of the East, as far as its administration was concerned, should be independent of the Church in the Roman Empire, and so remove the doubt that Christians were not patriots but secret supporters of their country's enemies.*"[88] According to researcher Betty Bailey, this administrative separation from the Western bishops is notable because there was not a theological cause at the origin of the schism. There were no doctrinal or conciliar issues involved at the time, for the separation took place prior to the

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[84] Nazir-Ali, Michael. "Christianity in Iran: a Brief Survey." *International Journal for the Study of the Christian Church*. 9.1 (2009), pp. 32-33.
[85] Labourt, Jérôme. *Le Christianisme Dans L'empire Perse sous la dynastie Sassanide, 224-632*. Paris: V. Lecoffre, 1904, p. 89. See also Asmussen, J. P. "Christian in Iran" *Op. Cit.*, pp. 939-940.
[86] Khanbaghi, Aptin. *Op. Cit.*, p. 10.
[87] For the records of the Synod see Chabot, Jean-Baptiste. *Synodicon Orientale*. Paris: Imprimerie nationale, 1902, pp. 295-296. See also Khanbaghi, Aptin. *Op. Cit.*, p. 11.
[88] Young, William G. *Op. Cit.*, p. 52.

council of Ephesus (431 C.E.)[89] and four years prior to Nestorius's appointment to the See of Constantinople,[90] that would cause the Orthodox Church to call the Church of the East "Nestorian." It is also true, however, that the Assyrian Church of the East only accepts the first two ecumenical councils, the First Council of Nicaea (325 C.E.) and the First Council of Constantinople (381 C.E.), and that it holds the doctrine of the separation of the two natures of Christ. The question of the two natures of Christ, divine and human, was, in fact, a matter of fierce dispute in the fifth century in the Roman Empire. Nestorious in fact taught that the divine and human natures were to be held separate and he was consequently condemned by the Council of Ephesus in 431.[91] Furthermore, The Church of the East rejected the Council of Ephesus and the title *Theotokos* (God-bearer) for the Virgin Mary, because it believed that this confused the divine and human natures of Christ. According to Bishop Michael Nazir-Ali, this was how the Assyrian church came to be known with the name "Nestorian" as well, even though its links with Nestorius were quite slender at first.[92] Because of these theological positions in the fifth and sixth centuries, communion was broken between the Church of the East and the Church of the Roman Empire.[93]

The recognition of the Christians as a subject-community did not result in an entire absence of persecutions, but it did imply that never again did the Sassanid Empire attempt to exterminate the Church of the East.[94] Emperor Yazdgard I was himself responsible for sporadic persecution even after the Edict of Toleration, and other emperors after him were also involved in the persecution of Christians. The reasons often had to do with religious intolerance, laws of apostasy which prescribed the death penalty for converting from Zoroastrianism, and incitement against the Christians by other religious groups. Yazdgard's Edict and the Synod of Seleucia, which soon followed in 410[95], resulted in the Church of the East becoming a recognized religious minority. It was subject to its own head, the *catholicos*, and

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[89] As a consequence of the Third Ecumenical Council of Christianity, the Council of Ephesus in 431 CE, the Nestorian Church arose in Antioch, emphasizing the divine as the sole nature of Christ. When the teaching was banned, the believers fled to Iran where they found hospitality.
[90] Bailey, Betty J. *Op. Cit.,* p. 61.
[91] Young, William G. *Op. Cit.*, pp. 56-57.
[92] For the purpose of this research I will employ Assyrian Church of the East and Nestorian Assyrian Church to denote the same religious community.
[93] Bailey, Betty J. *Op. Cit.,* p. 131.
[94] Nazir-Ali, Michael. *Op. Cit.*, pp. 32-33.
[95] The synod established a hierarchical Christian Church in Iran, with a patriarchate at Ctesiphon and metropolitans in the capitals of five Persian provinces.

the other bishops, though the appointment of at least the former had to be approved by the *Shah*. The Church could, with State approval, make its own laws, and, if the Church was not able to enforce such laws, the State would do so. The church was permitted to own its buildings, endowments, and institutions.[96]

The position of the Christians probably improved even more under Sassanid Emperor Khosraw I Anushiravan (531-578 C.E.), as he had a Christian wife. His son Anushazad apparently embraced the religion of his mother and hoped to obtain the support of Nestorians in Khuzistan to usurp power, without any success. Anushazad's appeal to the Christians for support, however, shows the numerical importance of this community in Khuzistan at this time.[97] Despite sporadic persecutions during the Sassanid period, the Christian community flourished and on the eve of the Arab invasion they formed the single largest religious community in Mesopotamia.[98] As Aubry Vine asserts, "*in spite of occasional persecutions, the Sassanian period was on the whole one of advancement and development for Iranian Christianity.*"[99]

The war with Christian Byzantium started in the fourth century continued long after the defeat of the Zoroastrian Sassanids. The hostility between Muslim Arabs and Christian Byzantines, in fact, caused the persecution of Nestorian Assyrians who were again suspected of allegiance to the Byzantines.[100] However, it seems that when the Muslim armies conquered Iran around 642 C.E., they were, at first, welcomed by the faithful of the Church of the East. The Arabs, in fact, favored the Eastern Assyrian administrative expertise to govern their Empire. Intellectually, at the same time, they were in great demand as translators, scientists and teachers. With the advent of Islamic governance, missionary work became increasingly circumscribed, though still not impossible, within Islamic domains. The Assyrian Church of the East continued to develop in relative isolation from other Eastern Churches and also from the Church in the West. It also continued to develop a missionary work in India, alongside the maintenance of already existing Christian communities, in Central Asia and as far as Tibet and China. This work only came to an end with the spread of Turkic and Mongol populations across the traditional

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[96] Nazir-Ali, Michael. *Op. Cit.*, pp. 34-35.
[97] Khanbaghi, Aptin. *Op. Cit.*, p. 12.
[98] Ivi, p. 14.
[99] Vine, Aubrey R. *The Nestorian Churches*. New York: AMS Press, 1980, p. 70.
[100] Khanbaghi, Aptin. *Op. Cit.*, p. 33.

areas of the Church in the thirteenth century. Even though some of the Mongols had been "Nestorians" themselves, the Church of the East was decimated as a result of the Mongol invasions, which caused tremendous changes in the whole of the Middle-East.[101]

In the mid-sixteenth century, prompted by internal conflicts partly due to a debate over rights of certain families to hereditary succession to the patriarchal and Episcopal Sees, a number of bishops of the Church of the East said to be "disposed" toward the Catholic Church and in the end sought recognition by Pope Julius III. Eventually, the separate Chaldean Catholic Church was formed in 1553.[102] Since the emergence of the Chaldean Church, in communion with Rome, the fortunes of the Assyrian Church of the East have declined still further.[103]

During the centuries outlined above, the Assyrian community was concentrated in Iranian Azerbaijan, mainly around the town of Urmieh. Before the arrival of the Carmelite (Roman Catholic) Mission in Salamas in the seventeenth century and the American Mission in Urmieh in the nineteenth century, the Assyrians in the Urmieh region were closely united with the Assyrians of the Hakkari region of Ottoman Turkey. They were united by the same language, modern Eastern Syriac, and owed ecclesiastical allegiance to the Church of the East under the hereditary Patriarch, the Mar Shamiun.[104]

According to the British diplomat Lord Curzon, the Assyrians and Chaldeans in Iran numbered upwards to 44,000 people in 1889.[105] Assyrians received much attention from Western missionaries. Americans of the Presbyterian Board of Missions established themselves in the area in 1835. They were followed by French, Swiss, British, German, and Russian missionaries. These not only offered the Assyrians extraordinary educational opportunities but also sheltered them from what Oberling calls "*the excesses of administrative oppression.*"[106] The coming of the Christian Missions, however, signified the end of Assyrian unity, as they brought

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[101] Nazir-Ali, Michael. *Op. Cit.*, pp. 34-35.
[102] Bailey, Betty J. *Op. Cit.,* p. 131.
[103] Nazir-Ali, Michael. *Op. Cit.*, p. 35.
[104] For a thorough discussion of the term "Assyrian" applied to either the people or the language, readers should consult John Joseph's study Joseph, John. *The Nestorians and Their Muslim Neighbors: A Study of Western Influence on Their Relations*. Princeton, N.J.: Princeton University Press, 1961., pp. 3-21.
[105] Curzon, George N. *Persia and the Persian Question*, London: Cass, 1892 (1966 repr.), Vol. I, p. 546.
[106] Oberling, Pierre. *Op. Cit.,* p. 21.

Western education coupled with Western Christian denominational dissension to the Assyrians and to the Assyrian Church of the East. Children attending the many different schools -American, British, French, Russian, or German- were taught the languages of their mentors as well as Assyrian, and religion, literature, history, and arithmetic. In most schools -especially in the two prestigious American schools, Fiske Seminary and Urmieh College- the classical Syriac so necessary for links with Assyrian religious tradition, philosophy, and literature was not taught.[107] From their base in Urmieh, the Americans made several attempts to expand into Roman Catholic-controlled Salamas and into the British Anglican-backed Hakkari Nestorian regions. Competition with Roman Catholic and Russian Orthodox Missions continued, but on the whole British and American Missions concerted their efforts. In 1869 they appear to have reached an understanding with regard to Protestant Missions in Iran, whereby Northern Iran would fall within the American sphere and Southern Iran within the British, under the Church Missionary Society of England.[108]

Assyrians were then divided as a result of Western Christian rivalry among different denomination: Presbyterian, Roman Catholic, Russian Orthodox, and Nestorian.[109] Meanwhile, the Constitutional Revolution of 1906, through its supplement of 1907, gave Assyrians (i.e. both Chaldeans and Nestorians) one delegate to the M*ajlis*. Due to the concentration of Assyrians in Azerbaijan at the time, the delegate had to come from Urmieh.[110] In the fall of 1910, at a meeting in Urmieh, Assyrians representing the four major denominations (Presbyterian, Roman Catholic, Russian Orthodox, and Nestorian) agreed that a committee of forty men be appointed (ten from each denomination) to decide on the candidates to be placed before the community for election. Archbishop Sergis of the Orthodox Mission, however, vetoed this decision by insisting that the choice of whether a representative would be sent to the Iranian capital at all rested with his congregation. The Orthodox position thus created an impasse.[111] After some negotiation with Tehran, the Urmieh Assyrian community –with the exception of the Russian Orthodox group- named three candidates and planned a tentative voting schedule. Yet, by late spring 1911 they had not arrived at a decision. Eventually, the

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[107] Naby, Eden. "The Assyrians of Iran: Reunification of a 'millat,' 1906–1914." *International Journal of Middle East Studies*. 8.2 (1977), pp. 239-240.
[108] Packard, Frances B. *The Story of Our Missions in Persia*. New York: Board of Foreign Missions of the Presbyterian Church in the U.S.A, 1920, p. 33. See also Naby, Eden. *Op. Cit.*, p. 237.
[109] Naby, Eden. *Op. Cit.*, pp. 241-242.
[110] Sanasarian, Eliz. *Op. Cit.*, p. 40.
[111] Naby, Eden. *Op. Cit.*, p. 245.

second *Majlis* was dissolved in December 1911. Therefore, the infighting among various Christian denominations in Urmieh undermined the selection of the deputy. According to historian Eden Naby, Russian interference in the relationship between the Assyrian community and the Iranian government, through the institution of the Russian Orthodox Mission, had lost the Iranian Assyrians their first opportunity for legitimate participation in government.[112] There were no representatives between World Wars I and II, and the first Assyrian deputy was elected for four years in 1959.[113]

The influence of the foreign Missions manifested itself in another aspect of Assyrian relations with Iranian authority. It was the practice of the small *millats* in Urmieh, as elsewhere in Iran, to deal with the Iranian government through the offices of a community leader called *millatbashi* (community head). Unlike the Armenian and Jewish communities of Urmieh, at the end of the nineteenth century the Assyrians had four *millatbashis* serving Presbyterians, Roman Catholics, Russian Orthodox, and Nestorians separately. While it had been the practice of Missions to redress wrongs against their parishioners through their embassies and consulates, the occupation of Urmieh by the Russians in 1911 increased the leverage of Assyrians against Muslims and heightened tensions. By turning to the Missions rather than to the local authority through the *millatbashi*, the Assyrians aggravated already hostile feelings toward them by gaining a more favorable status in comparison with other non-Christian and linguistic minorities.[114]

One of the main controversies in the Assyrian community before World War I involved emigration to the West. When Russian control of the Transcaucasus brought present-day Armenia and Georgia under the rule of a Christian power, Assyrians began migrating North in search of seasonal or permanent employment. Generally only men made the journey, traveling by foot or cart to Julfa, where they boarded trains for Tiflis. One basic reason for the migration was that, as Christians, Assyrians could not engage in many trades among Muslims, a situation owing not to government restrictions but to the fact that local Muslims would not trade with Christian butchers, bakers, or food merchants given the different religious habits in food-processing. Most Assyrians who went to Russia returned after a few years with

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[112] Ivi, p. 247.
[113] Sanasarian, Eliz. *Op. Cit,* p. 40.
[114] Naby, Eden. *Op. Cit.*, p. 247.

their savings. After the I850s, when, through contact with Americans, Assyrians discovered employment opportunities in North America, they frequently did not stop in Russia but boarded ship at Libava (Latvia) for Canada and the United States. The choice of the educated class of men and women to emigrate rather than remain in Urmieh impoverished the local Assyrian culture.[115]

Mohammad Reza Shah's regime (1941-1979 C.E.) was a peaceful one for the Assyrians and Chaldeans, whose numbers had already dwindled considerably compared to the early 1900s. The official Iranian press referred to them as members of the Assyrian Church of the East and the Chaldean Catholic Church. By the mid-1970s, at least half of the 30,000 Assyrian population lived in Tehran, and some 40 percent still resided in Urmieh and its surroundings. During the 1990s, the number of Assyrians and Chaldeans together had shrunk to an all-time low between 16,000 to 18,000 in Iran, the majority being Assyrian. The bulk of the Chaldean population in Iran traditionally resides in the Khuzestan province with concentration in Ahvaz.[116]

1.2) Jews

Some authors consider that the Assyrian invasion of the Northern Kingdom of Israel in 722 B.C.E. might have started the first wave of Jewish migration to Iran.[117] A century and a half later, the invasion of the Southern Kingdom of Judah and the destruction of the first Temple in Jerusalem by the Babylonians in 586 B.C.E. were accompanied by forced exile and captivity in Babylonia that lasted half a century. King Nebuchadnezzar II of Babylonia, in fact, after the conquest of Jerusalem, carried away as captives 10,000 Jews from Jerusalem and Judah, including King Jehoiachin of Judah.[118] This was the beginning of what came to be known as the Jewish Diaspora.[119] According to historians Shaul Shaked and Netzer Amnon, the Jewish community of Iran is one of the oldest surviving concentrations of Jews in the

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[115] Ivi, p. 248.
[116] Sanasarian, Eliz. *Op. Cit.,* p. 43.
[117] See Neusner, J. "Jews in Iran" in *The Cambridge History of Iran Vol. 3.* Cambridge: Cambridge University Press, 1968, p. 909.
[118] Mayer, I. Gruber. "The Achaemenid Period." In Sarshar, Houman. *Esther's Children: A Portrait of Iranian Jews.* Beverly Hills, Calif: Center for Iranian Jewish Oral History, 2002, p. 3.
[119] Amanat, Mehrdad. *Jewish Identities in Iran: Resistance and Conversion to Islam and the Baha'i Faith.* London: I.B. Tauris, 2011, p. 18.

Diaspora, if it is not actually the oldest.[120] They also claim that the Jewish community of Iran, represents an almost perfect specimen of Jewish existence in history: "*the sequence of high achievements and misery, of close cultural affinity and inner rejection, and of occasional material well-being and cruel oppression, in interchanging or simultaneous waves, would summarize the Jewish mode of being in Iran through the centuries.*"[121] Such a cultural and historical importance is testified by the fact that, as remembered by Eliz Sanasarian, the Jews are the most researched one among the non-Muslim religious minorities in Iran. Furthermore, it is worth highlighting that, since any study of the Jews always faces the issue of religious versus ethnic identity, also in the Iranian case it is not always easy to discern these two aspects.[122]

The destruction of the Temple in Jerusalem represented a major shock for the Jewish identity, as the required ritual sacrifices that were crucial to Jewish religious life could only be performed there. A major turning point, one with profound consequences for the Jewish history in Iran, came with the conquest of Babylon by Cyrus of Anshan in 539 B.C.D.. Founder of the Achaemenid Empire, Cyrus had a policy of religious toleration, and he restored many of the places of worship destroyed by the Babylonians or in the wars leading to their defeat. Moreover, in 538 B.C.E., Cyrus issued an edict allowing the Jews to return to Jerusalem and rebuild their Temple.[123] By the time of Achaemenid rule, Jewish colonies were "*scattered over all provinces and among all peoples of the Persian Empire,*"[124] from centers in Babylon to Iranian provinces and cities such as Hamadan and Susa.[125] Cyrus' successors continued his policy of toleration, for Jews as well as for peoples of other religions in the Empire. The reconstruction of the Temple, which actually took place under Darius the Great (520-516 B.C.E.), became a symbol of the freedom of the Jews and their acceptance as subjects of the Achaemenid Empire on an equal footing with other minorities.[126] Some observers have even compared the role of Cyrus as a liberator of the Jews to that of Moses. In fact, Cyrus is the only foreign

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[120] Shaked, Shaul, and Amnon Netzer. *Irano-judaica: Studies Relating to Jewish Contacts with Persian Culture Throughout the Ages*. Jerusalem: Ben-Zvi Institute for the Study of Jewish Communities in the East, 1982, p. 14.

[121] Ivi, p. 2.

[122] Sanasarian, Eliz. *Op. Cit.,* pp. 44-45.

[123] Spector, Daniel E. *A History of the Persian Jews*. University of Texas at Austin, 1975, pp. 13-14. See also Lavi, Ḥabib. *Comprehensive History of the Jews of Iran: The Outset of the Diaspora*. Costa Mesa, CA: Mazda Publishers in association with the Cultural Foundation of Habib Levy, 1999, p. 23.

[124] Amanat, Mehrdad. *Op. Cit.*, p. 18.

[125] Shahvar, Soli. "The Islamic Regime in Iran and Its Attitude Towards the Jews: the Religious and Political Dimensions." *Immigrants & Minorities*. 27.1 (2009), pp. 84-85.

[126] Amanat, Mehrdad. *Op. Cit.,* p. 18.

ruler with a positive image in the Bible, where he is referred to as "God's anointed."[127] Furthermore, he was hailed by many of the Jewish leaders as the person designated to fulfill Jeremiah's prophecy,[128] according to which the Jews would be liberated and allowed to return to Judah.[129] Based on this, the Jews regarded him as a Messiah.[130]

Under Artaxerxes II (404-358 B.C.E.), a second wave of Jewish settlers led by prophet Ezra returned to ancient Palestine in 398 B.C.E.. However, many Jews remained in today's Western Iran and Mesopotamia-Babylonia, and were influential in the formation of Talmudic law. On many occasions, the Jews of Palestine and Babylonia saw Persians as their allies and even their liberators vis-à-vis the often-intolerant Greeks and Romans who ruled Palestine form 330 B.C.E. and 63 B.C.E., respectively. The natural alliance between Jewish élites and Achaemenid Persians against common enemies is an underlying trend throughout this period. This pattern of interaction and tolerance became more evident during the Parthian era, which coincided with severe persecutions of the Jews in the neighboring Roman Empire.[131] In 334 B.C.E. Alexander the Great invaded the Achaemenid Empire. In a lightning campaign, he quickly dispatched the Persian armies and brought the whole region under Greek control. The Greeks ruled Iran for less than a century. In 250 B.C.E., Arsaces founded the Parthian dynasty which rapidly reclaimed the old domain of the Achaemenids except for Egypt, the Mediterranean Coast, and Western Anatolia. The Parthians were very similar to the Achaemenids: both dynasties were Persian and both ruled a vast empire by allowing a great deal of local autonomy. Although the official religion was Mithraism, an offshoot of Zoroastrianism, the Parthians, like the Achaemenids, employed tolerant policies towards Jewish minorities.[132] These tolerant policies of the Parthians prompted a large number of Jews to migrate to Iran. The position of *exilarch* (lit. head of the exiles) was established in 70 C.E. under King Vologeses I (51-77 C.E.), whereby the Jews of Parthian Iran enjoyed a form of

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[127] See Isaiah 44:24, 26–45:3, 13. *La Sacra Bibbia*. Roma: Edizioni Paoline, 1964.
[128] See Jeremiah 29:14.
[129] Mayer, I. Gruber. *Op. Cit.*, p. 3.
[130] Foltz, Richard. *Spirituality in the Land of the Noble: How Iran Shaped the World's Religions*. Oxford: Oneworld, 2004, pp. 46-47.
[131] Amanat, Mehrdad. *Op. Cit.*, p. 19.
[132] Spector, Daniel E. *Op. Cit.*, p. 26.

self-governing authority with independent political, administrative, and juridical powers.[133]

In 226 C.E. Parthian rule over Iran ended when Ardashir I (226-241 C.E.) proclaimed himself Emperor and began the Sassanid dynasty. Ardashir I made Zoroastrianism the state religion, and the Sassanid reign began with some persecution of minority faiths, as was described above in the case of Christians. Zoroastrian priests sometimes incited followers to destroy Jewish places of worship and sought to have local political figures forbid the practice of Jewish rituals.[134] This represented a departure from Achaemenid and Parthian tolerance. Moreover, as promoters and protectors of the Zoroastrian religion, the early Sassanid rulers reduced the autonomy that Jews had previously enjoyed, and as a result the *exilarch* exercised less power. The Sassanids did not, however, pursue persecution of religious minorities to the logical conclusion of abolishing all but the State religion. They realized, as did their predecessors, that it was impossible to control their vast empire without allowing considerable autonomy to diverse religious and ethnic groups.[135] Ardashir and his successor, Shapur I (241-272 C.E.), wished primarily to be assured of the loyalty of their subjects. The Babylonian Talmud informs us that the head of the Jews, Mar Samuel of Nehardia (d. 254), demonstrated his full loyalty to Shapur I by supporting his campaigns against the Romans and by recognizing officially the law decreed by the Shah as valid for the Jews. This strategy enabled Mar Samuel to secure for the Jews the same privileges they had enjoyed under the Parthians, and in practice they conducted their own legal affairs independently from the Sassanids.[136] The *exilarch* was recognized as the head of the Jewish community; therefore, he was in charge of collecting taxes and dispensing justice, and had a function similar to that of a king's vassal. Under Shapur I, persecution of the Jews completely stopped. According to the historian Daniel Spector, Shahpur I was an enlightened monarch who wanted all peoples, Jews as well as Christians, to be free to practice their own religion.[137] By the beginning of the fifth century, the Jews had regained much of their independence and their position had improved. This is evident, for example, in the marriage of Yazdgard I (399-421 C.E.) to Shoshan-dokht,

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[133] Amanat, Mehrdad. *Op. Cit.,* p. 19.

[134] Van Gorder, A. Christian. *Op. Cit.*, p. 29. See also Neusner, J. "Jews in Iran" in *The Cambridge History of Iran Vol. 3*. Op. Cit., pp. 913-914.

[135] Spector, Daniel E. *Op. Cit.*, pp. 33-34.

[136] See Widengren, Geo. *The Status of the Jews in the Sassanian Empire*. Jerusalem: Hebrew University, 1968, p. 126-128.

[137] Spector, Daniel E. *Op. Cit.*, pp. 33-34.

daughter of the Jewish *exilarch*.[138] Under the Sassanid dynasty, the Jewish population in Iran grew considerably and spread throughout the region. According to historian Aptin Khanbaghi, Iran had probably the largest Jewish population in the world, with some towns being populated mainly by Jews.[139] Moreover, their economic networks were extensive and instrumental in the operation of the Silk Road trade.[140] The Sassanid capital, Seleucia-Ctesiphon, just South of today's Baghdad, was the center of Jewish religious learning in Iran.[141]

After nearly one thousand years of good relations between the Jews and the Iranian rulers, Yazdgard II (438-457 C.E.) launched a persecution against the Jews, which was continued by his successor Peroz (457-484 C.E.).[142] Their hostile attitude towards this community was unprecedented in Iranian history.[143] By the seventh century, there was much discontent with the archaic and extremely restrictive Sassanid social structure, which was dominated by a clerical élite with ties to an exclusionist and corrupt ruling class. Just as many Iranians in the early Islamic period saw hope in the arrival of conquering Arab armies and their promises of social equality, the Jews also responded positively to the advance of the Arabs, especially given the above-mentioned persecutions[144]

The Sassanid empire was quickly dissolved in the seventh century. In 637, only five years after the death of Muhammad, their Prophet and leader, the newly united Arabs captured Ctesiphon, the Sassanid capital. The Persians resisted for a few years, but the Battle of Neharand in 641 sealed the doom of the Sassanids and ushered in a new era of history for Iran: during the reign of the second Caliph, 'Umar (634-644 C.E.), the Sassanid empire fell to Arab forces. The Iranian Jews thus came under Muslim control. Although 'Umar had expelled the Jews from the Hijaz, a region in the West of present-day Saudi Arabia, his attitude toward this community changed once his armies reached Iranian territory. The second Caliph appreciated the support of Iranian Jews, and he realized that a change in his policy toward Jews was appropriate. The Arabs allowed them to reopen their academies and treated

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[138] Amanat, Mehrdad. *Op. Cit.,* p. 20. See also See Duchesne-Guillemin, J. "Zoroastrian Religion" in *The Cambridge History of Iran Vol. 3*. Cambridge: Cambridge University Press, 1968, p. 889.
[139] Khanbaghi, Aptin. *Op. Cit.*, p. 7.
[140] Van Gorder, A. Christian. *Op. Cit.*, p. 29.
[141] Shahvar, Soli. *Op. Cit.*, pp. 84-85.
[142] Neusner, J. "Jews in Iran" in *The Cambridge History of Iran Vol. 3*. Op. Cit., p. 915.
[143] Khanbaghi, Aptin. *Op. Cit.*, p. 8.
[144] Amanat, Mehrdad. *Op. Cit.,* p. 21.

them with respect. After the death of the fourth Caliph 'Ali in 661, the Umayyads, a family related to but once rivaling the family of Muhammad, ruled the Arab Empire for about 90 years (661-750 C.E.).

There is little information of Jewish life in Iran during this period.[145] When a rival Arab clan, the Abbasids, arose to challenge Umayyad rule, the Persians backed that challenge in hopes they would have more control over their lives under Abbasid rule. The revolt began in Khorasan, and by 750 the Abbasids claimed leadership of the entire Arab Empire, except for Spain. As expected, the non-Arab peoples of the Empire, including the Jews, did benefit from the change. The Iranian Jews were particularly pleased when the Abbasids shifted the imperial capital from Damascus to Baghdad, since this shift enhanced the economic position of the Jews of Mesopotamia. Under the Abbasids, service with the government was opened to non-Arabs, including Jews, to an extent unknown in Umayyad times, and several Iranian Jews attained some prominence in this period.[146] After the tenth century, time of a revival of Persian literature, the Jews increasingly began to use the Persian language. Islamic rule, on the one hand, required more conformity and placed serious restriction on Jews, inhibiting their social and cultural participation in public life. Yet, Islamic law provided Jews, as "People of the Book" (*ahl al-kitab*), a measure of protection that, while at times overlooked or violated, nevertheless resulted in overall conditions for Iranian Jews that were far superior to those of Jews living in pre-modern Europe during the same time.[147]

The real change in Jewish social status came about after the Mongol invasion in the thirteenth century, which gave rise to the Il-khanid dynasty (1258–1335 C.E.). Iran was ruled for the first time since the Arab conquest by non-Muslims, often with shamanistic and Buddhist beliefs. The fall of the Abbasid Caliphate in 1258 and the further consolidation of non-Muslim rule, lasting some seventy years, gave rise to fundamental changes in the religious and political life of the Eastern Muslim world. The new ruling élite with its shamanistic beliefs was initially uninterested in monotheistic religions, and they treated Muslims, Christians, and Jews alike. With the advent of the Mongols and the ensuing weakening of the dominant Islamic establishment and the *Shari'ah* legal order it represented, the Jews opted for greater

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[145] Spector, Daniel E. *Op. Cit.*, pp. 57-58.
[146] Ivi, pp. 64-66.
[147] Amanat, Mehrdad. *Op. Cit.,* pp. 26, 30.

socio-cultural assimilation and even political participation. A number of Jewish physicians and administrators rose to positions of administrative prominence and played leading roles in the political life of Il-khanid Iran. Gradually, however, the Il-khanids became attracted to other religions, and at various periods many eventually converted to Buddhism, Christianity, and Islam along with their Mongol tribal leadership. The Il-khan Ghazan (1295-1304 C.E.) made Islam the state religion one again. Ghazan was quite zealous in carrying out the change: he ordered the destruction of many places of Jewish, Christian, and Buddhist worship, and reinstituted old laws that discriminated against religious minorities.[148]

Although there is evidence of Jewish persecution in pre-Islamic Iran, most scholars point to the rise of the Safavid dynasty (1501-1722 C.E.) and the adoption of Shi'a Islam as State religion at the start of the sixteenth century as the beginning of the worst era in Persian-Jewish relations.[149] As it has been noticed in the previous paragraph, Shi'a Islam became a cornerstone of Safavid legitimacy. Moreover, under the Safavids, the Shi'a clergy became especially powerful. One primary change relevant to the condition of the Iranian Jews was that the prevalence of the doctrine of *nejasat* (ritual impurity or uncleanliness) -present in Sunni Islam but more emphatically emphasized in Shi'a Islam- served as a cornerstone of relations between Muslims and non-Muslims.[150] The doctrine of religious impurity of non-Muslims led to innumerable restrictions upon the daily life of non-believers and aimed, according to historian Walter Fischel, at their ultimate elimination from the Iranian soil.[151] The problem with *nejasat* arose from the inclusion in Shi'a Islam of two things considered ritually unclean: corpses and infidels. The inclusion of infidels was based on Sura 9:28 of the *Qur'an*, which states: "*O ye who believe! The idolaters are indeed unclean.*"[152] Though in essence aimed at all non-Shiites, the notion of *nejasat* was most vehemently associated with Jews. Perpetuating this discriminatory practice, Shi'a authorities issued a number of decrees prohibiting Jews in particular from coming into contact with Muslims, touching foods in Muslim shops, or selling edibles to Muslims. These decrees further restricted Jews to the use of only certain

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[148] Ivi, p. 31. See also Spector, Daniel E. *Op. Cit.*, p. 77.
[149] See, for example Yeroushalmi, David. *The Jews of Iran in the Nineteenth Century: Aspects of History, Community, and Culture.* Leiden: Brill, 2009, p. 63, Shahvar, Soli. *Op. Cit.*, p. 85, and Fischel, Walter J. "The Jews in Mediaeval Iran: From the 16th to the 18th Centuries: Political, Economic, and Cultural Aspects", in Shaked, Shaul. *Op. Cit.*, p. 266.
[150] Amanat, Mehrdad. *Op. Cit.*, p. 38.
[151] Fischel, Walter J. "The Jews of Persia, 1795-1940." *Jewish Social Studies.* 12.2 (1950), p. 120.
[152] *The Qur'an.* New York: Oxford University Press, 2005, sura At-Tawbah, Trans. Abdel, Haleem M. A.

wells, prohibited them from using Muslim public baths, or forbade them to walk in the streets on rainy days lest they transmitted their alleged *nejasat*, "impurity," to Shiite citizens through water. Moreover, Shi'a Muslims would normally hesitate to rent houses to Jews because of the same allegation and they usually would not sell homes to Jews because many houses contained the graves of their ancestors in the cellar.[153]

The expansion of clerical power under the *mojtaheds* (legal scholars) as the embodiment of Shi'a legal authority further defined the boundaries of a segregated society. These circumstances coincided with a number of instances of forced conversion directed in particular towards indigenous Jews. In some instances, forced conversions were conducted openly and in direct violation of *Shari'ah* law mandating the protection of the *dhimmis*. At other times they were done indirectly and by means of intimidation. Yet, according to Mehrdad Amanat, religious motivation cannot by itself explain the often complicated process leading to these incidents of forced conversion. Zoroastrians, for example, who unlike some Jews and Christians did not have high profiles in Iran's commercial economy or its international trade, were more immune to such practices. This may point, in Amanat's account, to the possibility of economic and political components working in combination with religious motives to give rise to an environment of intolerance toward Jewish and non-Muslim communities.[154]

The conditions of Jews under Safavid rule varied according to the attitude of the ruling Shah, attitude that became generally more religiously orthodox toward the latter part of the Safavid era. As far as Shah 'Abbas I (1587-1629 C.E.) was concerned, for example, the doctrine of "ritual impurity" was conveniently overlooked when economic and political considerations were at stake.[155] Shah 'Abbas I, however, introduced the Law of Apostasy which allowed a convert to Islam to claim exclusive rights to the property and possessions of his relatives, however distant, thus making the transfer of goods and property a reward for those who became apostates from their former religion. This law was designed to encourage conversion, and it was to impact on Jews of Iran as well as on the other religious

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[153] Sarshar, Houman. *Esther's Children: A Portrait of Iranian Jews*. Beverly Hills, Calif: Center for Iranian Jewish Oral History, 2002. See also Spector, Daniel E. *Op. Cit.*, pp. 54-55, and Tsadik, Daniel. *Op. Cit.,* p. 17.
[154] Amanat, Mehrdad. *Op. Cit.,* p. 38.
[155] Ivi, p. 39.

minorities until the twentieth century. Although Nasr ad-Din Shah repealed it in 1880, it was not until many years later that civil authorities actually enforced the repeal. Shah 'Abbas I moved his capital to Isfahan, a community with a sizeable Jewish population. According to historian Vera Moreen, the major source for determining the status of Iranian Jews during the reigns of Shah 'Abbas I, Shah Safi I, and Shah 'Abbas II is the *Kitab-i Anusi* (The Book of Forced Conversion) of Babai Ibn Lutf, which covers the period between 1617 and 1661 C.E.. According to this testimony, Shah 'Abbas I was generally, but not consistently, friendly towards the Jews. The *Kitab-i Anusi* revealed, however, that the Jewish communities of Iran suffered several waves of persecutions during this period.[156] While during the first part of the rule of 'Abbas I the Persian Jews seem to have enjoyed relative freedom, economically and religiously, a marked deterioration took place towards the end of 'Abbas I rule: enforcement of a special headgear and a special badge for all Jews as a sign of discrimination, measures against the books written in Hebrew, and further persecution of the Jews in many communities which culminated in the forced conversion of the Jews in Isfahan.[157] More widespread persecution occurred under Shah 'Abbas II (1642-1666 C.E.). Since he ascended the throne at the age of ten and was too young to govern, the affairs of the state were handled by the Grand Vizier, Itimad ad-Daula, and the Shi'ah clergy, who were determined to crack down on religious freedom within the Persian soil. The turning point in the fate of the Jews was a decree promulgated in 1656, empowering the Grand Vizier to force all the Jews to convert to Islam.[158] The Jesuit missionary Alexander de Rhodes inserted in his book, *History of the Mission of the Fathers of the Society of Jesus*, a chapter which is entitled, "The Jews in Persia Compelled to Become Muhammadans," and stated: "*The Jews had spread themselves all over Persia in far greater number than might be supposed, and were leading a most peaceable existence without any suspicion of the terrible misfortune which was hanging over their heads [...] It came as an unexpected blow and threw them into dreadful consternation when, all of a sudden, an edict of the King (Abbas II) was issued and published in every place in Persia commanding them on the pain of death to abjure the Jewish religion and profess, thenceforth, that of*

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[156] Moreen, Vera B. *An Introductory Study of the Kitab-i Anusi by Babai ibn Lutf*. Ph.D. diss., Harvard University, 1978.
[157] Fischel, Walter J. "The Jews in Mediaeval Iran: From the 16th to the 18th Centuries: Political, Economic, and Cultural Aspects", in Shaked, Shaul. *Op. Cit.*, pp. 275-276. See also Tsadik, Daniel. *Op. Cit.,* p. 5.
[158] Fischel, Walter J. "The Jews in Mediaeval Iran..." Cit., p. 276.

Muhammad."[159] After their forced conversion, they were called New-Muslims, *Judad al-Islam*. They were then freed from the payment of the poll tax and from wearing the special headgear or badge.[160] In any case, an edict was issued by Shah 'Abbas II in 1661, allowing the Jews to return openly to Judaism.[161] Under the successors of Shah 'Abbas II, the oppression and persecution of the Jews in Iran, particularly in the capital Isfahan, continued. The condition of Jews deteriorated further during the rule of the last independent Safavid ruler, Shah Sultan Hosain (1694-1722 C.E.).[162] According to Mehrdad Amanat, a possible explanation for this plight of the Jewish minority can be searched in part in the community's lack of protection beyond the *dhimmi* guarantees, which were, in turn, frequently violated. Unlike the Armenians, for example, who could rely, during the same period, on their economic influence and trade connections with European powers, the Jews may indeed have been an easier target. "*At times, the forces of religious conformity were strengthened when they were tied to political objectives*". Therefore, as claimed by Amanat, the rise of the Safavid and the ascendancy of Shi'ism as a means of political legitimacy created a new politicized dimension to relations with the Jewish community.[163]

The situation of the Jews in Iran continued to worsen as Iran became more unstable politically after the downfall of the Safavids.[164] This was especially the case during the Qajar reign (1797–1924 C.E.), which witnessed many upheavals that accompanied the slow modernization of Iran.[165] During the Qajar reign, Jews were scattered: they had communities in big cities such as Isfahan, Shiraz, Hamadan, Kermanshah, Senneh, Tehran, as well as in smaller towns and villages. They numbered, according to an estimate of the beginning of the nineteenth century, about 30,000 people, a figure which, during the nineteenth century, increased to approximately 50,000.[166]

The Qajar rulers inherited the intolerant attitude towards non-believers from the Safavid era. The Jew, being ritually unclean, had to be externally differentiated

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[159] Alexander de Rhodes, *Relation de la mission des Pères de la Campagnie de Jesus établie dans le royaume de Perse.* Paris, 1659. The relevant chapter XVI was translated from French into English by A.T. Wilson in the *Bulletin of the School of Oriental Studies*, 3 (1923-25), pp. 675-705, 695-697.
[160] Fischel, Walter J. "The Jews in Mediaeval Iran…" Cit., pp. 279-280.
[161] Ivi, p. 281.
[162] Gregorian, Vartan. *Op. Cit.,* p. 656.
[163] Amanat, Mehrdad. *Op. Cit.*, p. 44.
[164] An exception is represented by the brief reign of Nadir Shah (1736-1747 CE), founder of the Afsharid dynasty. See Fischel, Walter J. "The Jews in Mediaeval Iran…" Cit. p. 283.
[165] Yeroushalmi, David. *Op. Cit.*
[166] Fischel, Walter J. "The Jews of Persia…" Cit., p. 119.

from the believer in every possible way. They could not appear in public, much less perform their religious ceremonies. Still in 1815, Sir John Malcom, who had visited Iran several times on British diplomatic missions, wrote "*that the Jews in Persia, who are not numerous, cannot appear in public, much less perform their religious ceremonies, without being treated with scorn and contempt by Mohomedan inhabitants of that Kingdom.*"[167] The Jewish traveler Rabbi David Beth-Hillel observed that many hundreds of Iranian Jews, in order to save themselves from a violent death, were constantly renouncing the religion of their fathers and becoming Muslims.[168] Besides conversions to Islam in order to avoid persecution and discrimination, two other main factors threatening Jewish survival in Iran during the nineteenth century were, according to Walter Fischel, the Christian missionary activities and the rising Baha'i movement, which also prompted many conversions among Jews.[169]

The attitude of the Qajar rulers precluded the Iranian Jews from obtaining any leading role in economic life. Fischel, in fact, describes how they were mainly "*peddlers wandering overland to remote villages, brokers, agents, shopkeepers, and small businessmen dealing in spices, drugs, antiques, jewelry, cloth, and luxury articles, and also millers, tailors, weavers, and dyers. The manufacturing of wine and alcohol, prohibited to Muslims, became a monopoly of Jews and a steady source of trouble and conflict*". Only in a few cities, such as Hamadan and Tehran, did some Jews occupy a higher social position, mainly as physicians. In the middle of the nineteenth century four brothers of one Jewish family were the most popular physicians in the city of Tehran. One of them, Hak Nazar, was for some time court physician of Mohammed Shah (1834-1848 C.E.). However, they had little influence on the actual political situation of their co-religionists.[170] The fact that, for example, a certain Haji Ibrahim of Shiraz, allegedly of Jewish origins, helped the Qajar dynasty into power and was appointed prime minister under the first two shahs had just a little effect on Persian Jewry, as did the fact that one of the wives of Fath 'Ali Shah (1797- 1834 C.E.), Miriam Hanum, was a Jew.[171]

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[167] Malcolm, John. *The History of Persia: From the Most Early Period to the Present Time: Containing an Account of the Religion, Government, Usages, and Character of the Inhabitants of That Kingdom*. London: Printed for John Murray by James Moyes, 1815, Vol. 2, p. 425. See also Tsadik, Daniel. *Op. Cit.,* p. 33.
[168] Beth-Hillel, David. *Unknown Jews in Unknown Lands*. New York: Ktav Pub. House, 1973.
[169] Fischel, Walter J. "The Jews of Persia…" Cit., p. 147.
[170] Ivi, pp. 121-122.
[171] Ivi, p. 123.

The peak of the forced elimination of Jewish communities occurred under Mohammed Shah, during whose rule the Jewish population of Mashhad, a city in Eastern Iran, was forcibly converted on March 27th, 1839, on the day of Ashura.[172] This holy day commemorates the martyrdom of Imam Husayn and is often accompanied by expressions of high religious fervor. Aside from some discrepancies in the details, the sources are in agreement over the supposed course of events that led to the outbreak of anti-Jewish violence. Most Jewish and Persian Qajar accounts report that the killing of a dog which was intended to remedy a Jewish woman's skin disease was seen as a gesture meant to ridicule the Imam's martyrdom on its anniversary. Under such a provocation, the mourning crowd reacted with spontaneous violence. According to historian Daniel Tsadik's report "*Muslims attacked the Jewish community, killing around thirty-two people, wounding many, and forcing the rest to embrace Islam.*"[173]

The condition of Iranian Jews improved in the second half of the nineteenth century. Part of this was due to the slow, but general, improvement of the economic, political, and social conditions of Iran as a whole. It was during this period that Western Jewry became interested in and supportive of changes in the status of Iranian Jews, aiming at improving their status.[174] According to Daniel Spector, one possible reason for the low status of Iranian Jews, as mentioned above, was their initial isolation from the governmental process. As a member of a minority group, "*the Iranian Jew at first had no way of influencing the ruling élite of Muslim Iran. As time went on, however, the Jews learned how to use Western diplomats to voice their grievances. Western Jews, especially those in Britain and France, were particularly instrumental in this, and Iranian Jews soon learned that they could carry their complaints to the Jews of London or Paris who, in turn, would pressure their diplomats in Iran. This was very much similar to what was being done by Iranian Christians, and the Western legations evolved into a sort of legitimate institution through which minority groups expressed their grievances.*"[175]

Moreover, during the second half of the nineteenth century, Jewish philanthropist organizations, such as the *Alliance Israélite Universelle* (AIU) and the Anglo-Jewish Association, attempted, through persuasion, to convince Naser ad-Din

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[172] Ivi, p. 124.
[173] Tsadik, Daniel. *Op. Cit.,* p. 36. See also Amanat, Mehrdad. *Op. Cit.*, p. 49.
[174] Spector, Daniel E. *Op. Cit.*, pp. 94-95.
[175] Ivi, p. 97.

Shah to improve the conditions of his Jewish subjects. This effort reached its peak during the first journey of Nasr ad-Din Shah to Europe in 1873. During this journey, the Shah met with committees of Jews in many European capitals, such as Berlin, Amsterdam, Brussels, London, Paris, Vienna, and Constantinopole. In an interview with Nasr ad-Din Shah and his prime minister and foreign minister, which took place on July 12th, 1873, in Paris, members of the AIU asked the Shah to protect Iranian Jews and to allow the French-Jewish organization to establish schools in Tehran. The Shah agreed to let them found schools for Iranian Jews, but 25 years passed before the first school was established in the country in 1898.[176] The considerable pressure both of the Western powers and of Western Jewry led to some social and administrative changes in favor of the Jews. In 1873, the Shah publicly declared the Jews equal members of society, and in 1880 he ordered that the Law of Apostasy be rescinded. The political status of the Jews was thus officially equated with that of the Shiite population. However, even if the Jews' status improved to some extent at the political level, since the Shah officially considered the Jews as equal participants in society, their social and religious position proved more difficult to enhance. Tsadik underlines that most sectors of the society generally continued to regard them as second class subjects, and treat them as such.[177] Portions of Muslim society, according to Tsadik, strongly resisted the bestowal of a new status on the Jews, and they fought for the application and reinforcement of the traditional *dhimmah* laws. The government had then to mediate between both the foreign pressure to improve the Jews' fortune, and the domestic pressure of some indigenous elements not to abrogate the *dhimmah*. Nonetheless, the Jews benefitted from unprecedented protection, not only from their own government, but also from foreigners. The interaction between European and Iranian Jews was made possible by an increased political and economic intercourse between Europe and Iran, and more specifically because of the European presence and influence in Iran.[178]

The first Jewish school of the *Alliance Israélite Universelle* was opened in the time of Mozaffar ad-Din Shah (1896-1907 C.E.), who ascended the throne after the

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[176] Oberling, Pierre. *Op. Cit.,* pp. 6-7. See also Confino, Albert. *L'action De L'alliance Israélite En Perse.* Alger: Impr. Charras, n.d., pp. 38-39, 45, and Cohen, Avraham. "Iranian Jewry and the Educational Endeavors of the Alliance Israélite Universelle." *Jewish Social Studies.* 48.1 (1986), p. 30.
[177] Tsadik, Daniel. *Op. Cit.,* pp. 180-181. See also Fischel, Walter J. "The Jews of Persia..." Cit., pp. 140-141.
[178] Tsadik, Daniel. *Op. Cit.,* pp. 183-184.

assassination of Nasr ad-Din Shah in May 1896.[179] The school was established in Tehran under the direction of the Jewish educator Joseph Cazés. This school was followed by the establishment of a school in Hamadan in 1900, in Isfahan in 1901, in Shiraz and Senna in 1903, and in Kermanshah in 1904. The Jews expected that the presence among them of representatives of foreign Jewry would be a guarantee of their security and safety.[180] Principals of AIU schools were in fact nationals of foreign countries and emissaries of the AIU, whose center was in the capital of a major European power. According to Avraham Cohen, in pre-Pahlavi Iran, this fact accorded them a "*quasi-diplomatic status and great prestige among the rulers.*" During time of trouble, they appeared before ministers, governors, police officers, and other officials and demanded redress of Jewish grievances. The Alliance principals often defended not only the Jews of their own city but also those of the entire district.[181]

As Mozaffar ad-Din Shah was even less forceful than his father had been in bringing about political and social improvements, the Jews of Iran gradually lost faith in the old Qajar system and welcomed the Constitutional Revolution as a possible harbinger of meaningful reform; some Jews even took an active part in the Constitutional movement. The Constitution of 1906 represented a step toward religious minorities' equality. The Constitution in fact gave Jews and other members of the religious minorities equal legal status in Iran. Of particular importance was the new right of Jewish heirs to inherit property regardless of the presence of Muslim heirs. In addition, in 1909, the Jews of Iran were granted permission to elect a representative to the *Majlis*, subject to approval by the government. When the Iranian Constitution called upon the Jewish community as one of the "subject nations" to send a representative to the National Assembly, "*this in and of itself was a tremendous revolution within that small community.*"[182] In fact, rather than having an *exilarch* serve as the link between the Jewish minority and the Iranian government, the Jewish representative was permitted to join the other representatives in the *Majlis*. The last *exilarch* was Mullah Abraham ben Mullah Agha Baba, who died in the summer of 1910. After his death, the position of *exilarch* ceased to exist in Iran because, with the election of a Jewish representative to the National Consultative

[179] Fischel, Walter J. "The Jews of Persia..." Cit., p. 138.
[180] Ivi, p. 146. See also Cohen, Avraham. *Op. Cit.*, p. 15.
[181] Cohen, Avraham. *Op. Cit.*, p. 30.
[182] Lavi, Ḥabib. *Op. Cit.*, p. 483.

Assembly and the reorganization of the Iranian government, there was no longer a need for such a position.[183] The Jewish community in Iran chose Aziz-Allah Simani as their first delegate to the first session of the *Majlis*. According to Habib Lavi, the election of Aziz-Allah Simani "*was one of the worst decisions made by the Jewish community during this period of political change, and it laid a weak foundation for the future.*"[184] He soon resigned, in fact, as Oberling explained, "*he was uncomfortable in a predominantly Muslim forum, where most of the Assembly representatives looked upon Jews with aversion.*" Thereafter, the Jewish community nominated Sayyid 'Abdallah Behbehani, a Muslim cleric and a champion of constitutionalism, to defend the rights of Iranian Jews.[185] Not until 1916 did they again choose a Jew, Dr. Lugman Nehurai. After this, however, a Jew was customarily elected.[186]

In many parts of Iran the immediate effect of the Constitutional Revolution was to bring about a heightening of anti-Semitism and oppression. The urban population of Iran, frustrated by inflation and other economic backlashes, often retaliated against their Jewish neighbors. In view of these circumstances it is by no means astonishing that in the ghettos of Iran the optimistic mood of the early days of the Revolution quickly dissipated and that Iranian Jews learned to put little stock in the *Majlis*'s ability or willingness to come to their rescue. The coup of Mohammed 'Ali Shah (1907-1909 C.E.) in June, 1908, brought as a counter effect what Ḥabib Lavi called "*new heights of fanaticism among the most reactionary and bigoted elements of the Iranian population, with the result that Jews were victimized on an unprecedented scale.*" Some examples of attacks against the Iranian Jews are reported by Lavi: in October 1908 Sheykh Baqer, a religious leader in Hamadan, ordered that graves in the Jewish cemetery in that city be dug up and he had the leaders of the Jewish community dragged into the streets and beaten up. In February 1909 another religious leader, Shaykh Zakariya, organized an anti-Jewish riot in Darab, in the course of which the city synagogue was looted and burned and seventeen Jewish were forced to convert to Islam. In March 1909 religious reactionaries led an attack on the ghetto of Kermanshah, in which wholesale plunder took place.[187] In 1909, there was another anti-Jewish riot in Kermanshah. However, Fischel underlines that many Muslim came to the aid of their Jewish neighbors. "*The British consul, Captain*

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[183] Ivi, pp. 491-492.
[184] Ivi, p. 490.
[185] Oberling, Pierre. *Op. Cit.,* p. 8.
[186] Spector, Daniel E. *Op. Cit.,* pp. 128-129.
[187] Lavi, Ḥabib. *Op. Cit.*, pp. 834-836.

Howarth, reported that some even went into the Jewish areas to stand guard with guns in front of Jewish houses. Others sent food and clothing to their Jewish friends." This action marked a turning point in the attitudes of ordinary Iranians towards the Jewish populace.[188]

Another effect of the coup of 1908 was to encourage the members of the various religious minorities to play a more active role in the continuing revolutionary turmoil. This activism was particularly stimulated by the heroic resistence of the inhabitants of Tabriz under Sattar Khan and Baqer Khan and the revolt of the inhabitants of Resht under the Armenian revolutionary leader Yeprem Khan. Two young Jewish revolutionaries from Tehran, Hajji Davud Abraham Yaqub Porforush and Aziz Ashar Rabi Rahmin, joined Yeprem Khan in Resht and accompanied him on his march to Tehran.[189] In general, the treatment of Jews throughout Iran improved during the period of the second *Majlis* (1909 -1911), Jews now had their own parliamentary representative, and a Jew was even appointed to the Municipal Council in Isfahan.[190]

According to the *Bulletin de l'Alliance Israélite*, there were some fifty-thousand Jews in Persia at the time of the Constitutional Revolution.[191] The largest communities in 1903-1904 were those of Shiraz and its surroundings (7,080), Isfahan (6,000), Hahadan and its surroundings (5,900), Kirmanshah and its surroundings (3,800), Yazd (2,500), Urumiyyah (2,200), Kirman (2,000), Kashan (1,800), Sanandaj (1,800).[192] During the 1890s, there were about 4,000 Jews in Tehran, occupying 10 to 14 synagogues. In 1918, the number of synagogues in that city increased to 19, owing to its growing Jewish population.[193]

The historian Gad Gilbar deems it difficult to reach any verifiable conclusion regarding the numbers of Iranian Jews during the nineteenth century; however, he considers the most likely figure of Jewish population at the start of the twentieth century of at least 40,000 Jews, while the population of Iran at that time is estimated at about ten million.[194] If these figures are correct, the Jews represented at least 0.4

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[188] Fischel, Walter J. "The Jews of Persia…" Cit., pp. 141-142.
[189] Lavi, Ḥabib. *Op. Cit.*, p. 487.
[190] Oberling, Pierre. *Op. Cit.,* pp. 10-11. See also Lavi, Ḥabib. *Op. Cit.*, pp. 498-499.
[191] Quoted in Aubin, Eugène. *Op. Cit.,* p. 298.
[192] AIU, *Bulletin Annuel* 66 (1904): 169. Cf. AIU: Iran. XI.E.110, Seneh, Hochberg, November 19, 1904, Hochberg to AIU.
[193] Cohen, Avraham. *Op. Cit.*, p. 16.
[194] Gilbar, Gad G. *Demographic Developments in Late Qajar Persia, 1870-1906*. Haifa, 1976, p. 144.

percent of the total population. Numerically, the Jews were thus a relatively negligible component of Iranian society.[195] Although scattered throughout Iran, by the late nineteenth century Jews seem to have been concentrated in the central and Western regions of the country. The majority of the Jewish communities appear to have been urban based, although many Jews frequently traveled to or lived in rural areas. Internal emigration was generally to the capital: immigrants came to Tehran from various locales, such as Hamadan, Isfahan, Yazd, and Kashan. Jews moved to Tehran probably because of the hope that the Shah would offer them protection, and because of the economic prospects which the capital could afford them.[196] Although a few Jews dealt in such luxury goods as cashmere scarves, precious stones, and pearls, or had succeeded in establishing commercial ties with foreign countries, or yet had become medical practitioners, the vast majority were peddlers and shopkeepers. Lord Curzon wrote that "*The majority of Jews in Persia are engaged in trade, in jewellery, in wine and opium manufacture, as musicians, dancers, scavengers, peddlers, and in other professions to which is attached no great respect.*"[197]

The last years of the Qajars in the early 1920s were marked by severe crises; there was political unrest, foreign encroachments, and financial crisis. The position of the Jews deteriorated during this period, temporarily breaking a positive trend that had been underway since the second half of the nineteenth century.[198] James Moncrieff Balfour described the Jewish condition in 1922, before the advent of the new Pahlavi dynasty, as follows: "*The Jews are for the most part to be found amongst the lowest class of the population, although in Tehran, where they number about twenty-five thousand, they have advanced in some cases from the status of petty hawker.*"[199] He also noted the frequency of intermarriage with Muslims and conversion to Baha'ism among the Jews.[200] Conditions in 1925 were better than they had been in the early nineteenth century, but probably not as good as at the time of the Constitutional Revolution.[201]

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[195] Tsadik, Daniel. *Op. Cit.,* p. 8.
[196] Ivi, p. 9.
[197] Curzon, George N. *Op. Cit.,* p. 510. According to Albert Confino, at the time of the Constitutional Revolution the working population of the Jewish ghetto in Shiraz was divided into the following trade groups: merchants (9o persons), pedlars (400), masons (200), glodsmiths (103), dealers in soft drinks (8o), distillers (10), drysalters (20), butchers (15), haber-dashers (5), moneychangers (10), jewellers (5), smelters (20), musicians (60), and doctors (7). Confino, Albert. *Op. Cit.,* p. 141.
[198] Spector, Daniel E. *Op. Cit.*, p. 129.
[199] Balfour, James M. *Recent Happenings in Persia.* Edinburgh: W. Blackwood and Sons, 1922, p. 51.
[200] Ibidem.
[201] Spector, Daniel E. *Op. Cit.*, p. 130

In 1925 the commander of the élite Cossack Brigade formally ended Qajar rule in Iran and became the first Pahlavi Shah. Using Ataturk and Turkey as an example, Reza Shah sought a policy of secularization and Westernization and did not permit Islamic clergy to meddle in state affairs. In practical terms, he separated religion from politics.[202] The Shah's primary goal was a revival of Iranian nationalism, a goal not always favorable to the Jews as their religion was often seen as inimical to nationalism. During the late 1920s, therefore, in an effort to wipe out Jewish distinctiveness, the Shah allowed a policy of destroying Jewish books and closing Jewish schools. Moreover, in the 1930s anti-Jewish articles were published in the Persian media, even if there were no explicit persecutions. The German Consul in Tehran, Dr. Shultz, even published a virulently anti-Semitic weekly called *Nabaral*, "Battle", and the pro-Nazi Mufti of Jerusalem was able to find temporary refuge in Iran after leaving Palestine in 1941.[203] Unlike the religiously motivated prejudice, anti-Jewish sentiments acquired an ethno-national character, a direct import from Germany.[204] The Jewish representative to the *Majlis* was the Zionist Solomon Chayyim of Kermanshah. As Reza Shah came to distrust minority activities as not being congruent with true Iranian nationalism, Chayyim found himself under surveillance and finally imprisoned for an alleged and unproved assassination conspiracy upon the life of Reza Shah. After many years of imprisonment, he was executed without any trials.[205] Reza Shah invited Hitler's finance minister, Dr. Schacht, to Iran to organize the country's banking and monetary affairs. Many other technicians and advisors from Nazi Germany arrived in Iran during this period. Reza Shah was probably expecting the Germans to defeat the Allies and therefore sought to establish friendly relations with Nazi Germany.[206]

In 1941 the Soviet Union and Britain warned Reza Shah that he was to rescind the concessions he had granted to the Germans and –while maintaining Iranian independence- allow the Allies to use the trans-Iranian railroad and other north-south roads. Reza Shah did not agree, so the Allies attacked Iran and in September

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[202] Lavi, Ḥabib. *Op. Cit.*, p. 478.
[203] Spector, Daniel E. *Op. Cit.*, pp. 132-133.
[204] Sanasarian, Eliz. *Op. Cit.,* p. 46.
[205] Spector, Daniel E. *Op. Cit.*, p. 131. See also Fischel, Walter J. "The Jews of Persia…" Cit., p. 144.
[206] Lavi, Ḥabib. *Op. Cit.*, p. 479.

1941 exiled Reza Shah to Johannesburg and accepted his young son, Mohammad Reza Shah, as new king.[207]

The Palestinian Conflict of 1948 marked another significant moment for the Iranian Jews. The overwhelming majority of Iranians, in fact, supported the Arab cause. Richard Cottam reports that in November 1947 posters were nailed up in the Tehran bazaar inviting Iranians to fight in Arab armies and boycott Jewish merchants.[208] The founding of the state of Israel in 1948 prompted the mass emigration of Jews from Iran: between 1948 and 1953, more than one-third of the Jewish population of Iran emigrated to Israel. Most of these emigrants came from the provinces and belonged to the lower classes; the wealthy Jews, particularly from Tehran, preferred to remain in Iran. In January 1948 Seyyed Abu al-Qasim Kashani led a demonstration of some 10,000 people in Tehran. The government, however, took strong measure to maintain order. It also eventually gave *de facto* recognition to the state of Israel in 1958.[209]

According to Sanasarian, there was a close connection between the Shah's regime and the State of Israel and this embodied a crucial factor in the dramatic improvement of the lot of Iranian Jews.[210] Throughout the thirty-eight years of Mohammad Reza Shah Pahlavi's rule, a period the historian Habib Levi has referred to as "the golden age of Iranian Jewry," the economic status of Jews in Iran improved dramatically compared to the past. Jews had become some of the leading contributors to the country's full-blown industrialization and Westernization campaign. "*Banking, insurance, textiles, plastics, paper, pharmaceuticals, aluminum production, liquor distillery and distribution, shipping, imports, industrial machinery, and tile manufacturing were all segments of Iran's then new and booming national industry that were either established by Jews or financed and directed under their leadership.*"[211] In 1979, 2 of the 18 members of the Royal Academy of Sciences, 80 of the 4,000 university lecturers, and 600 of the 10,000 physicians in Iran were Jews.

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[207] Ibidem.
[208] Cottam, Richard W. *Nationalism in Iran*. Pittsburgh: University of Pittsburgh Press, 1964, pp. 84-85
[209] Spector, Daniel E. *Op. Cit.*, p. 135.
[210] Sanasarian, Eliz. *Op. Cit.,* p. 47.
[211] Sarshar, Houman. *Op. Cit.*

For the first time ever, about 50 percent of Jewish children of elementary school age attended Hebrew schools and received lessons in Hebrew.[212]

The 1979 Revolution ended official Iran-Israeli cooperation. Yet, many Iranian Jews had supported the revolution, and the Islamic Republic Constitution recognized them as members of the Iranian nation with equal rights and responsibilities.[213] In the 1970s, the number of Jews in Iran was estimated to be around 80,000; however, within one year of the Revolution their numbers declined dramatically to about 60,000-50,000.[214]

Iranian Jews, according to Sanasarian, have received harsher treatment than the other recognized religious minorities.[215] Within a few months after the return of Ayatollah Khomeini to Iran, the event that most startled the Jewish community was the execution in May 1979 of Habib Elghanian, a multimillionaire businessman charged of spying for Israel and of fighting "*against God and his messenger and all of the people of Iran.*"[216] Soli Shahvar, however, claims that Islam itself, with its fundamental precepts that give clear unequivocal recognition to the Jews, "*was the shield safeguarding the Jews*". Consequently, while seeking to introduce Islamic rule and apply its laws, Khomeini and the Iranian clerics who followed him were bound to respect other aspects of such rule, namely the status granted to those who believe in the other monotheistic faiths, including the Jews. Therefore, officially, the Jews have enjoyed since then the status of a protected minority under the contract of *Dhimmah*, and they continue to be represented by one candidate in parliament.[217]

Accordong to Sanasarian, "*the fundamentalist ideologues of the Islamic Revolution compensated for the religious limitation placed upon them by making accusations against Jews of treason, conspiracy, and intrigue in order to justify persecution.*"[218] Khomeini, whose ideology served as the foundation of the clerical regime in Iran and the Constitution of the Islamic Republic, considered the Jews to be the enemies of Islam from its inception until the present time: "*The Jews have*

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[212] Siton, Dawid. *Sephardi Communities Today*. Jerusalem: Council of Sephardi and Oriental Communities, Jerusalem, 1985, p. 184
[213] Mohammad, Hemmasi. *Op. Cit.*, pp. 77-78.
[214] Sanasarian, Eliz. *Op. Cit.*, p. 48.
[215] Ivi, p. 110.
[216] See Sarshar, Houman. *The History of Contemporary Iranian Jews. Vol. 3.* Beverly Hills, Calif: Center for Iranian Jewish Oral History, 1999, p. 26, and Afshari, Reza. Human Rights in Iran: The Abuse of Cultural Relativism. Philadelphia, PA: University of Pennsylvania Press, 2001, p. 136.
[217] Shahvar, Soli. *Op. Cit.*, p. 86.
[218] Sanasarian, Eliz. *Op. Cit.*, p. 110.

been a nuisance to the Islamic movement from its beginning. They were the first to spread anti-Islamic propaganda and devise ideological plots; and [...] this situation prevails until the present time."[219] As a proof Khomeini quoted Qur'anic verses, which describe them as "*afflicted with sins, walking on the wrong path, and subverting under Islam.*" "*Their anti-Islamic conspiracies,*" he claimed, "*are aimed at damaging Islam and shaking its most important pillar – the eternal and total legal system that directs the affairs of the state and society.*" He further stated that to realize this aim, the Jews have joined hands with groups "*who are more satanic than themselves,*" in order to "*pave the way for the penetration of imperialism into Islamic lands.*"[220] Given the "impure" and generally "negative" character of the Jews, Khomeini also prohibited any business dealings between Muslims and Jews, approving only such deals in which the Muslims were certain that their business with Jews would contribute towards the elimination of the Jewish domination of Muslim bazaars.[221] Khomeini found a direct link between Jews and Zionism by stating that the most visible expression of the Jewish-Christian conspiracy against Islam is the establishment of the State of Israel, "*aimed at suppressing and exploiting the Muslims.*" He added that, for the time being, "*Zionism is the latest expression of Jewish enmity towards Islam and the worst symbol of Western tyranny against it.*"[222]

Because of this perception of the Jews as the enemies of Islam and supporters of Israel, numerous punishments and many restrictions were imposed on them. Thus, a number of Iranian Jewish leaders and wealthy people were either executed or imprisoned between 1979 and 1981.[223] Many more Jews, compared to other recognized religious minorities, were imprisoned: by 1982 nine known Jews had been executed. Their charges comprised spying for Israel and the United States, supporting Zionism, corruption, treason, and drug dealing. In August 1980, Chief Rabbi Yedidiya Shofet left for Europe asking the Jews to leave Iran quickly.[224] The restrictions and limitations imposed on the Jewish community in Iran encompassed

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[219] Khomeini, Ruhollah. *Velayat-e Faqih: Hokoumat-e Eslami* [The Rule of the Jurisprudent: Islamic Government]. Tehran: Entesharat-e Mehr, 1368 s./1989, p. 7.
[220] Khomeini, Ruhollah. *Islam and Revolution: Writings and Declarations of Imam Khomeini*. Trans. Hamid Algar. Berkeley, CA: Mizan Press, 1981, pp. 27, 47, 109, 127.
[221] Imam Khomeini, *Resaleh-ye Ahkam* (Tehran: Esma'ilian, n.d.), pp. 26, 28, as quoted by Sanasarian, Eliz. *Op. Cit.,* p. 29.
[222] Dabashi, Hamid. *Theology of Discontent: The Ideological Foundations of the Islamic Revolution in Iran.* New York: New York University Press, 1993, p. 426.
[223] On Jews executed after 1979, see: Abrahamian, Ervand. *Tortured Confessions: Prisons and Public Recantations in Modern Iran*. Berkeley: University of California Press, 1999, pp. 125, 132, 222.
[224] Sanasarian, Eliz. *Op. Cit.,* p. 114.

many aspects, such as in the fields of employment, justice and education. The government nationalized the Jewish schools, and compelled them to operate during the same weekdays as all the Muslim schools (that is, from Saturday to Thursday). Jewish pupils were required to attend school on Saturdays and Jewish holidays (thus forcing them to break the sanctity of Sabbath).[225]

The majority of the Jewish community in Iran migrated, only few thousand Jews remained, and they are still considered to be the biggest Jewish community in the entire Muslim world.[226] As Maurice Mo'tamed, the Jewish MP, told during the *Majlis* session on April 13th, 2005: "*Insulting Jews and attributing untrue materials to them in TV serials over the past 12 years have not only hurt the feelings of the Jews, but they have, one can say with conviction, led to the migration of a considerable percentage of them.*"[227] In the aftermath of the Islamic Revolution, the Iranian Jewish community is then drastically reduced in size and, influenced by the wider religious environment, has adhered more fervently to its ritualistic observances.[228]

1.3) Zoroastrians

Zoroastrianism is the oldest surviving religion in Iran, and it has been so named because its prophet, Zarathushtra, was known to the ancient Greeks as *Zoroaster*. It is very difficult, however, to date the life and scriptures of Zoroaster.[229] According to archeologist Mary Boyce, there is evidence to suggest that he preached and prospered between the eighteenth and the sixteenth centuries B.C.E.. Boyce notices how Zoroaster is the only founder of a world religion who was a priest and a prophet at the same time.[230] Even if the major doctrines of Zoroastrianism are ancient, the rituals and holy books, called the *Avesta*,[231] were written between the

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[225] Shahvar, Soli. *Op. Cit.*, p. 90. See also Theodoulou, Michael. "Jews in Iran Describe Life of Freedom Despite Anti-Israel Actions by Tehran." *The Christian Science Monitor*. 90.47 (1998).
[226] Shahvar, Soli. *Op. Cit.*, p. 90. See also Theodoulou, Michael. *Op. Cit.*
[227] IRNA, 13 April 2005, http://www.irna.ir/irnewtest/en/news/view/line-17/0504131400192915htm. Mo'tamed's criticism was specifically aimed at the state broadcasting company for airing serials, which he said were insulting the ancient Jewish Diaspora in Iran.
[228] Amanat, Mehrdad. *Op. Cit.*, pp. 209-210.
[229] Spector, Daniel E. *Op. Cit.*, p. 22.
[230] Boyce, Mary. *Zoroastrians, Their Religious Beliefs and Practices*. London: Routledge & Kegan Paul, 1979, p. 2. See also Kestenberg, Amighi Janet. *The Zoroastrians of Iran: Conversion, Assimilation, or Persistence*. New York: AMS Press, 1990, pp. 45-46.
[231] The *Avesta* is composed of a number of sections including ancient myths called the *Yascht*. Some of the same myths from this book are also repeated in the *Shahnameh* (The Ancient Book of the Kings) which is an epic poem in rhyme by the Persian poet Firdowsi which was completed about 1010 CE.

tenth and the seventh centuries B.C.E..[232] Zoroaster taught that *Ahura Mazda*[233] was the one, supreme God, probably making Zoroastrianism the most ancient form of monotheism. Moreover, he taught that there was a dualism expressed throughout the world: the power of good, represented by light and *Ahura Mazda*, was in perpetual spiritual combat with evil, represented by darkness and *Ahiram*, "the king of lies." Zoroaster introduced the concept of a judgment of the soul after death, leading to an afterlife in heaven or hell. According to Zoroaster, in fact, one's moral decisions in this life would directly affect one's level of blessing in the world to come. After death, a person's good deeds would be weighed on a scale balanced against one's evil deeds. Good people would ascend to a realm of bliss while evildoers would face a period of punishment in hell.[234]

Zoroastrianism became the state religion of two mighty Iranian empires, which flourished almost continuously from the sixth century B.C.E. to the seventh century C.E. (the Achaemenid Empire and the Sassanid Empire). It was then endowed for many centuries with temporal power, wealth, and spiritual authority.[235] The growth of Zoroastrianism as a great imperial faith can be traced through the Achaemenid period, and thereafter it is characterized as the "Iranian faith." By this time, the religious community possessed temples, shrines, and broad estates, and it was served by an increasing number of priests. Nothing is known from this time, however, about the organization of the religious community. The Achaemenid kings appear to have required their Iranian subjects to adhere to it, but they made no attempt to impose it on the many non-Iranian peoples over whom they ruled.[236] Moreover, there is no evidence of any proselytizing among non-Iranians under the Achaemenids, but since Persian officials were to be found in dominant positions in every province of the empire, together with colonies of merchants and other settlers, and since Zoroastrian priests would be present to minister to their needs and serve at their place of worship, probably they gradually disseminated Zoroaster's doctrines throughout the region, from Egypt to the Black Sea.[237]

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[232] Van Gorder, A. Christian. *Op. Cit.,* p. 22. See also Dhalla, Maneckji N. *Zoroastrian Civilization: From the Earliest Times to the Downfall of the Last Zoroastrian Empire*. New York: AMS Press, 1977.

[233] For this reason, Zoroastrianism is also called Mazdaism.

[234] Van Gorder, A. Christian. *Op. Cit.,* pp. 23-24. See also Boyce, Mary. *Op. Cit.,* pp. 76-77, and Kestenberg, Amighi Janet. *Op. Cit.,* p. 49.

[235] Boyce, Mary. *Op. Cit.,* p. 1.

[236] Boyce, Mary. "The Zoroastrians of Iran: Over 3000 Years of Faith." Asian Affairs. 16.3 (1985), p. 244.

[237] Boyce, Mary. *Zoroastrians, Their Religious Beliefs…Cit.*, pp. 76-77.

According to Eliz Sanasarian, there is little doubt that Zoroastrianism doctrines influenced Buddhism, Judaism, Christianity, and Islam throughout the centuries.[238]

In the third century B.C.E., the Persian Empire was invaded by Alexander the Great, who defeated Darius III in battle in 331 and in five years of campaigning conquered almost all the territories of the Achaemenid Empire.[239] Alexander's conquest of the Persian Empire was a tremendous blow to Zoroastrianism, for many of its priests died during the fighting which accompanied his campaigns. According to Mary Boyce, the Zoroastrian priests, known generally to the Greeks as the "*magi*," represented a special target for killing, perhaps because they refused to come to terms with the conqueror who symbolized to them "an unclean infidel." Accordingly, they may well have inspired local resistance to him, and have often paid the price with their own lives. To this day, Zoroastrian tradition knows Alexander as "the Accursed" and the "killer of *magi*."[240] The same tradition holds that the burning of the library at Persepolis caused the loss of much of the Zoroastrian holy scripture, the *Avesta*, and today only about two-thirds of it remain.[241] Although Alexander conquest shattered the Zoroastrian community, their sufferings were then incidental to war and politics: there was no, in fact, threat of religious persecution. The conquering Greeks, on the whole, kept their religious beliefs, while the Iranians and other subject people kept theirs; moreover, many of the Iranian colonists remained and continued to thrive in the non-Iranian lands of the overthrown Persian empire, so that there were Zoroastrians still in many foreign places and they were often rich and prosperous, even though no longer belonging to a ruling people.[242]

Zoroastrianism was widely promoted when it became the official religion of a new Persian dynasty, that of the Sassanids, in 224 C.E..[243] However, the enforcement of Zoroastrianism at the political level did not render Iran a religiously homogenous land. On the contrary, Iran was still home, as described above, to numerous Jewish and Christian communities.[244] Under Sassanid rule, the extensive Zoroastrian community in Iran enjoyed the privilege of belonging to the religion of the ruling

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[238] Sanasarian, Eliz. *Op. Cit.,* p. 48.
[239] Boyce, Mary. *Zoroastrians, Their Religious Beliefs…Cit.,* p. 78.
[240] Boyce, Mary. "The Zoroastrians of Iran…" Cit., p. 244.
[241] Kestenberg, Amighi Janet. *Op. Cit.,* p. 52.
[242] Boyce, Mary. "The Zoroastrians of Iran…" Cit., p. 245.
[243] Mohammad, Hemmasi. *Op. Cit.*, p. 76. See also Kestenberg, Amighi Janet. *Op. Cit.,* p. 1.
[244] Khanbaghi, Aptin. *Op. Cit.,* p. 6. See also Van Gorder, A. Christian. *Op. Cit.*, p. 26.

aristocracy.[245] Thus, this community possessed the power to determine and enforce its own rules for coexistence and interaction with the non-Zoroastrian communities within the empire.[246]

Until the Muslim Arab invasion in the middle of the seventh century, Zoroastrians dominated Iran politically and formed the majority of the population of the country outside Mesopotamia, that was then still part of the Persian empire. The end of their religious and cultural hegemony in the middle of the seventh century made their situation, at first, similar to that of Jews and Christians. The Arab invasion, however, was less challenging for the Jews and the Christians than for the Zoroastrians, since both Jews and Christians had lived as minorities under the Sassanids, and remained as such under Arab rule. The Zoroastrian élites, concerned with maintaining their position of privilege and leadership, were more inclined to convert to Islam and attach themselves to the new Muslim aristocracy. On the other hand, Jewish and Christian leaders had less to lose and did not have to become Muslim in order to maintain their social standing.[247] The impact of Islam on the non-Muslim population was to be felt more in the long term. Indeed, in the two centuries that followed the Arab invasion, the bulk of the Iranian population remained non-Muslim. The numerical superiority of Zoroastrians in the seventh century allowed them even to maintain positions of influence. The Arabs needed their assistance for the administration of their newly conquered lands, and until the eight century Zoroastrian bureaucrats outnumbered Jewish and Christian administrators to the East of the Euphrates.[248] However, not long after Arab rule had been established, they were gradually removed from positions of influence and a century of strife ensued in Iran between Arabs and Iranian Zoroastrians.[249] The Islamization of Iran was not instantaneous but rather took place over several centuries. It is likely, as remembered by Professor of Iranian studies Jamsheed Choksy, that the rate of conversion to Islam was slower in rural areas, and that the authority and influence of the Zoroastrian community persisted in non-urban environments at least until the late tenth century.[250] Nevertheless, in urban areas an estimated 80% of the

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[245] See Duchesne-Guillemin, J. "Zoroastrian Religion" in *The Cambridge History of Iran Vol. 3*. Cambridge: Cambridge University Press, 1968, pp. 874-875.
[246] Choksy, Jamsheed K. "Zoroastrians in Muslim Iran: Selected Problems of Coexistence and Interaction During the Early Medieval Period." *Iranian Studies.* 20.1 (1987), p. 17.
[247] Amanat, Mehrdad. *Op. Cit.,* p. 29.
[248] Khanbaghi, Aptin. *Op. Cit.*, pp. 17-18.
[249] Ivi, p. 15.
[250] Choksy, Jamsheed K. *Op. Cit.*, p. 19.

population had already become Muslim by the tenth century.[251] In the long run, the Arab conquest was "an almost complete disaster" for Zoroastrianism. The contexts in which the ancient religion survived in Iran were largely rural, especially in the villages around the cities of Yazd and Kerman.[252]

There have been various explanations concerning the reasons that prompted a majority of Iranians to abandon their traditional faith in favor of Islam. Historian Richard Foltz, for example, contends that, at least during the first century or so, the Arabs were mostly reluctant to allow non-Arabs into their prospering community, requiring them to acquire an Arab sponsor (*mawla*) through whom they could obtain a sort of honorary Arab tribal identity. That many non-Arabs chose to do so would represent an evidence, according to Foltz, that membership in this community was very attractive for them, since it encompassed temporal as well as spiritual advantages. Another factor that weakened Zoroastrianism was the dependence of its priesthood on state support, which came to an end with the fall of the Sassanid empire. Moreover, with the establishment of the Arab rule and the increasing application of the norms of Islamic law, two different kind of issues lead numerous Iranian Zoroastrians to embrace an Islamic identity: on the one hand, there were legal issues, such as family inheritances accruing entirely to individuals converting to Islam,[253] the stipulation that children of mixed marriages be raised as Muslims, and the prohibition against proselytism by non-Muslims. Zoroastrians were, in fact, prohibited from proselytizing among their Muslim neighbors and prevented from constructing fire temples.[254] On the other hand, there were social issues, such as localized persecution of non-Muslims by members of the Muslim majority, or the possibility to maintain leading positions in the administration.[255] In 741 C.E., for example, the Umayyads decreed that non-Muslims be excluded from governmental positions. The edict induced numerous government officers to

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[251] Foltz, Richard. "Zoroastrians in Iran: What Future in the Homeland?" *The Middle East Journal*. 65.1 (2011), p. 75. See also Bulliet, Richard W. *Conversion to Islam in the Medieval Period: An Essay in Quantitative History*. Cambridge: Harvard University Press, 1979, pp. 43-44.

[252] Boyce, Mary. "The Zoroastrians of Iran…" Cit., pp. 245-246.

[253] By the tenth century, the Muslim authorities had decreed that a Zoroastrian who converted to Islam inherited all the property of his or her family. See Boyce, Mary. *Zoroastrians, Their Religious Beliefs…Cit.,* p. 159.

[254] Abd al-Husain Zarrinkub, "The Arab Conquest of Iran and Its Aftermath", in *The Cambridge History of Iran 4*, ed. Richard N. Frye. Cambridge: University Press, 1975, p. 27.

[255] Foltz, Richard. "Zoroastrians in Iran: What Future…" Cit., p. 74. See also Choksy, Jamsheed K. *Op. Cit.,* p. 22.

convert in order to maintain their means of livelihood.[256] Conversion to Islam for personal gain and maintenance of social status occurred mainly among the Iranian nobility, courtiers, and the landowning class. As Richard Frye noted, voluntary conversion to Islam in the early period of the conquest was usually for political and economic rather than religious reasons.[257]

When forced conversion to Islam occurred, even if the first generation of converts were not practicing Muslims, their offspring were usually raised within an Islamic society and lost contact with Zoroastrianism. Thus, as stated by Jamsheed Choksy, forced conversion did achieve its aim of increasing the number of Muslims at the expense of the Zoroastrian population.[258] In spite of forced conversion and occasional persecutions, however, the Zoroastrian inhabitants of many towns and villages attempted to maintain their local political and religious dominance. There was a tendency to attempt to impose their practices upon the Muslims. However, the gradual loss of political and economic dominance in both urban and rural areas adversely affected Zoroastrian attempts to prevent conversions to Islam. In addition, the community's ability to impose its own terms for coexistence and interaction lessened.[259]

In the tenth century C.E., a group of Zoroastrians from Khorasan, sailed to India through the Persian Gulf in order to avoid persecutions and forced conversion to Islam. They landed in 916 C.E. on the coast of Gujarat in Western India, where they established a flourishing Zoroastrian community among the Hindus. To them they were known as the "Parsis" community.[260] This was, however, only a small exodus, and till the tenth century the Iranian Zoroastrians still formed a sizable minority.

In Iran, the Turkish invasions of the eleventh century and the Mongol conquests of the thirteenth century brought the Zoroastrians close to annihilation. At first the Saljuk Turks and then the Mongols swept into Iran out of the steppes of Central Asia, destroying the temples of the Zoroastrians and the last great collections of the *Avesta*.[261] Boyce notes how, after the Mongol invasions in the thirteenth century, the

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[256] Khanbaghi, Aptin. *Op. Cit.*, pp. 19-20.
[257] Frye, Richard N. *The Golden Age of Persia: The Arabs in the East*. London: Weidenfeld and Nicolson, 1975, pp. 61-62.
[258] Choksy, Jamsheed K. *Op. Cit.*, p. 30.
[259] Ivi, pp. 27-28.
[260] Boyce, Mary. "The Zoroastrians of Iran..." Cit., p. 246.
[261] Ramazani, Nesta. "The Zoroastrians: the Faith Thrived in Iran Before Islam Now It Is Almost Gone-but It Has Left an Immense Cultural Impact." *Iran Times International* (Washington, Dc). 39.1 (2009).

Zoroastrians disappeared from the recorded history of Muslim Iran: "*They were by then too few in numbers, too down-trodden and too poor to attract the notice of the learned; and it is not until European travelers came to visit Safavid Iran in the seventeenth century that the outside world was to hear of them again.*"[262] Under the Safavids (1501-1722 C.E.), members of the Zoroastrian community increasingly experienced, and feared, the specter of forced conversion to Islam under the religious zealousness of newly empowered Shiite clerics. At the same time, the transformation of fire temples[263] into mosques, and desecration or even demolishment of Zoroastrian funerary towers took place.[264] During the reign of Shah 'Abbas I (1587-1629 C.E.), Zoroastrians had grouped themselves around two cities in the center of Iran, far from both courts and frontiers, Yazd and Kerman. The villagers of the Yazd plain were then still probably almost all Zoroastrians.[265] European visitors to Iran during the reign of Shah 'Abbas I noted that, in 1608, a number of Zoroastrians were forcibly relocated from Yazd and Kerman to the capital city Isfahan as laborers.[266] In Isfahan, they had their own district on the south side of the Zayandah Rud River. In other cities of Safavid Iran there were small communities of Zoroastrians and they served as a manual workforce and as textile weavers.[267] Among the most onerous restrictions imposed upon the Zoroastrians, there was the *jizya*, the poll-tax levied on non-Muslims.[268] Notwithstanding the fact that the community itself had shrunk significantly over the course of the eighteenth century, the total amount owed to the government remained calibrated according to earlier population figures. Moreover, the local governors permitted the tax to be arbitrarily increased; hence, the amount due doubled or even tripled by the time of the Qajar monarch Naser ad-din Shah.[269]

Not until the nineteenth century was the persecution of the Zoroastrians eased. By the nineteenth century, the living conditions of Iran's Zoroastrians had

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[262] Boyce, Mary. "The Zoroastrians of Iran…" Cit., p. 246.

[263] The cult of fire is at the heart of Zoroastrian devotional life. For more information on Zoroastrian fire temple see Boyce, Mary. "On the Zoroastrian Temple Cult of Fire." *Journal of the American Oriental Society*. 95.3 (1975).

[264] Foltz, Richard. "Zoroastrians in Iran: What Future…" Cit., p. 76. See also Choksy, Jamsheed K. "Despite Shahs and Mollas: Minority Sociopolitics in Premodern and Modern Iran." *Journal of Asian History*. 40.2 (2006), p. 136.

[265] See Green, Nile. "The Survival of Zoroastrianism in Yazd." Iran. 38 (2000), p. 115.

[266] Tavernier, Jean-Baptiste. *Op. Cit.,* p. 163.

[267] Moreen, Vera B. "The Status of Religious Minorities…" Cit., p. 133. See also Choksy, Jamsheed K. "Despite Shahs and Mollas…" Cit., p. 137.

[268] Boyce, Mary. "The Zoroastrians of Iran…" Cit., p. 247.

[269] Ringer, Monica. "Reform Transplanted: Parsi Agents of Change Amongst Zoroastrians in Nineteenth-Century Iran." *Iranian Studies*. 42.4 (2009), p. 553.

deteriorated to such an extent that the Parsis, who had begun to prosper in British India, began to send financial aid and lobby Iran's government on behalf of their co-religionists.[270] The nature of the contact between the Iranian and Indian Zoroastrian communities had changed during the course of the eighteenth century, when deteriorating conditions in Iran had led to increased Zoroastrian migration from Iran to India and elsewhere at the end of the century.[271] In 1853, Parsi merchants established a group dedicated to improving the conditions of Zoroastrians in Iran. This organization, the Society for the Amelioration of Conditions in Iran (SACI), set as its goal the lifting of Islamic legal restrictions on Zoroastrians (as non-Muslims) and the associated non-Muslim tax, the *jizya*. The SACI was the first organized means for changing legal and living conditions for Zoroastrians in Iran. According to Monica Ringer, it is not certain whether Parsis were contacted by their coreligionists in Iran for help with the *jizya* tax, or whether they initiated assistance unrequested. The first SACI representative to Iran was Maneckji Limji Hataria (1813-1890 C.E.). Hataria, a Bombay Zoroastrian who worked for the British on commercial issues, enjoyed British citizenship and had been searching for an opportunity to visit Iran as the historic homeland of the Zoroastrians. In 1854, Hataria traveled to Iran and settled in Tehran to begin lobbying for the repeal of the *jizya* tax.[272] Hataria also organized the Iranian Zoroastrian community and funded a variety of community projects.[273] He helped set up the first schools for Zoroastrian children in Iran and heralded a re-invigoration of the priesthood with money for new temples and education in new perspectives on theological matters.[274] Hataria was ultimately successful in convincing the Shah to repeal the *jizya* tax, in large part due to his political talent and his recruitment of foreign diplomats as allies. British officials, in fact, were encouraged, both by Hataria and by Parsis in India, to lobby the Shah on behalf of Zoroastrians in Iran. Eventually, in 1882, Naser ad-Din Shah abolished the *jizya* tax by royal order.[275]

Despite the Shah's formal repeal of the tax, as in the case of the legal reforms affecting the Jews which have been described above, discrimination against the

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[270] Foltz, Richard. "Zoroastrians in Iran: What Future…" Cit., p. 74.
[271] Ringer, Monica. *Op. Cit.*, p. 549.
[272] Ivi, pp. 552-553.
[273] Ivi, p. 549.
[274] Green, Nile. "The Survival of Zoroastrianism in Yazd." *Iran*. 38 (2000), p. 116.
[275] Ringer, Monica. *Op. Cit.*, p. 553.

Zoroastrians continued, so that their conditions only "slightly improved."[276] Travelogues by Western scholars Edward G. Browne and Andrew V. Williams Jackson, for example, provide valuable glimpses into the lives of Zoroastrians as a generally hard pressed minority during the nineteenth and early twentieth centuries.[277] The *jizya* even continued to be collected by local officials in Yazd for some time after the Shah's repeal. Over the course of the nineteenth century, as the court increased the degree of governmental centralization, the question of the Zoroastrians, and religious minorities more broadly, was inseparable from the ongoing contest between royal authority and local autonomy. The *ulema* in particular resisted royal attempts to infringe on the Islamic-based legal system.[278] The Shah's willingness to support the reduction of *Shariah*-based restrictions on religious minorities was due to Zoroastrian international political capital and their growing commercial wealth, both due to closer ties with the Parsis in India. This combination of the extension of central authority, international political pressure, and commercial incentives made it more likely for the Shah to find it in his interest to protect Zoroastrians against their local oppressors.

According to the Zoroastrian scholar Ferhang Mehr, there were some twenty-four thousands Zoroastrians in Iran at the time of the Constitutional Revolution.[279] Over two thirds of them were to be found in Yazd, close to a third of them lived in Kerman and a few hundred of them had settled down in Tehran and a few other cities.[280] The Zoroastrians were early supporters of the constitutionalist movement in Iran. Liberal ideas from England were undoubtedly influential. Most of the Zoroastrian leaders were rich businessmen who had been trading with India for many years, had grown accustomed to seeking British protection and tended to have a profound admiration for British institutions. Some of them had even been educated in India or England. According to historian Pierre Oberling, the Zoroastrian leaders helped the revolutionaries in the most effective way possible: by providing them with the necessary funds and weapons. Some prominent Zoroastrian

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[276] Malcolm, Napier. *Five Years in a Persian Town*. London: John Murray, 1908, pp. 48-50.

[277] Brown, G. Edward. *A Year Amongst the Persians*. London: A. and C. Black, 1893, reprint New York: Hippocrene Books, 1984, pp. 314-315, 394-500; and Jacson, Williams Andrew V. *Persia Past and Present: A Book of Travel and Research*. New York: Macmillan, 1906, pp. 273-275, 336-338, 354-400.

[278] Ringer, Monica. *Op. Cit.*, p. 554. See also Choksy, Jamsheed K. "Despite Shahs and Mollas…" Cit., p. 144.

[279] Mehr, Farhang. *Sahm-e-Zartoshtiyan dar Engelab-e-Mashrutiyyat-e-Iran*. Tehran, 1970, p. 5, as quoted by Oberling, Pierre. *Op. Cit.,* p. 15.

[280] Ibidem.

businessmen, like Arbab Jamshid Jamshidiyan provided the Constitutionalists with economic support; others, like Arbab Khosro Shahjahan, together with several of his business associates, such as Arbab Fereydun Khosro Ahrastani, also supplied the Constitutionalists with weapons. These activities infuriated Mohammad 'Ali Shah and his adherents, so that the Zoroastrians were not only exposed to the type of riot which periodically wrecked the Jewish ghettos, but also to attacks from royalist thugs, especially during the period of the First *Majlis* (1906-1908). On February 13th, 1907, a leading Zoroastrian merchant in Yazd, Arbab Parviz Shahjahan, was murdered. On January 7th, 1908, Arbab Fereydun Khosro Ahrastani was murdered by royalist gang in Tehran. Shortly after, Arbab Khosro Shahjahan was forced to flee to India to avoid a similar fate.[281]

Zoroastrian intellectuals also took an active role in the pro-Constitution movement in Iran. Wealthy Zoroastrian families helped the movement financially and lobbied the Muslim merchants, the *ulema*, and the press for the passage of provisions on equal rights of all citizens.[282] Unlike the Jews and the Armenians, the Zoroastrians did not relinquish their representation to Muslim clergymen, and were represented by one deputy in the First *Majlis*.[283]

For the Zoroastrians, as for all the religious minorities of Iran, the departure of Mohammed 'Ali Shah from the scene in 1909 brought about an immediate improvement in their condition.[284] The twentieth century saw additional helpful trends, such as the Iranian nationalism of Pahlavi ruler Reza Shah and of his son Mohammad Reza, which raised the status of Zoroastrians as possessors of Iran's "original" pre-Islamic culture. Less visible, but even more significant was the dramatic rise in the value of agricultural land, which lifted many rural Zoroastrians from poverty to prosperity virtually overnight. A major result of this newfound wealth was the migration of Zoroastrians to urban centers such as Yazd and Kerman, and increasingly to the capital, Tehran. In the cities, Zoroastrians attained higher levels of education and a greater presence in the workforce, while the villages they had left came to be populated by Muslims.[285]

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[281] Ivi, pp. 17-18.
[282] Bayat, Mangol. *Iran's First Revolution: Shi'ism and the Constitutional Revolution of 1905-1909*. New York: Oxford University Press, 1991, pp. 190-191
[283] Sanasarian, Eliz. *Op. Cit.,* p. 49.
[284] Oberling, Pierre. *Op. Cit.,* p. 20.
[285] Foltz, Richard. "Zoroastrians in Iran: What Future…" Cit., pp. 74-75.

During the Reza Shah era (1925-1941 C.E.), Zoroastrian schools and worship centers were subjected to restrictions similar to those imposed on other non-Muslim minorities, but, at the same time, they became a unique instrument for the nationalist ideology of the new monarch. Ancient Persian symbols, closely associated with Zoroastrians, became the cornerstone of modern Iranian nation-building. The most obvious was the 1934 declaration by Reza Shah that foreigners call the country "Iran" rather than "Persia". "Iran" derived from an expression in the Zoroastrian *Avesta*, and in the new ideology it was closely associated with the glorious past of Persian kingdoms in the period before the Arab invasion. Many Zoroastrians, among whom there were ardent supporters of Reza Shah, welcomed the new system.[286] Mohammad Reza Shah's government (1941-1979 C.E.) was better than any previous regime in its relations with the Zoroastrians. During his reign, for example, the first Zoroastrian World Congress met in Tehran in 1960, and one member of the community was placed in high position in the government. Although official state-minority relations were good, however, prejudice and discrimination continued at the provincial level, as emphasized by Sanasarian.[287]

Mohammad Reza Shah's orders in the early 1970s to change the Iranian calendar from the Islamic history to the monarchical one outraged the clerical establishment. For Ayatollah Ruhollah Khomeini this was an act of "treason" and a direct insult to the Prophet Mohammad, Islam, and all Muslims; it was an attempt to restore Zoroastrianism, set up "fire-temples," and destroy Islam. In fact, he regularly referred to Zoroastrians with the derogatory term "*gabr*" (this word has various meaning. It is often a reference to ancient Persians. The word means a helmet but its use by the Shiite clerical circles means infidel or pagan).[288]

The 1979 Revolution brought renewed persecutions against Zoroastrians, especially during the first years. Khomeini dismissed Zoroastrianism as "*an old and inveterate sect,*" and referred to Zoroastrians as "*reactionary fire worshippers*" and to their intentions as "*reactionary.*" Emboldened by this kind of rhetoric, some Muslim families took the opportunity to seize Zoroastrian property, and the nominal respect accorded the community under the Pahlavis quickly dissipated. Muslims were put in

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[286] Sanasarian, Eliz. *Op. Cit.,* p. 49.
[287] Ibidem.
[288] Ayatollah Ruhollah Khomeini, *Majmuehi az Maktoobat, Sokhanraniha, Payamha va Fatavi-ye Imam Khomeini az Nimeye Dovom 1341 ta Hejrat be Paris (14 Mehr 1357)*, Tehran: Chanchesh, 1360 (1981/1982). Quoted in Sanasarian, Eliz. *Op. Cit.,* p. 30.

charge of Zoroastrian schools. However, Zoroastrians were not necessarily singled out. In fact, all non-Muslim minorities suffered during the early years of the Revolution, as indeed did the population as a whole, due to widespread social instability which was exacerbated by the eight-year war with Iraq.[289] Hemmasi and Prorok underline that, as with many Iranian Muslims, those Zoroastrians who emigrated during the 1980s did so more for economic and social difficulties related to their secular lifestyles than for religious persecution.[290]

By the mid-1990s, the Zoroastrian population numbered 50,000 people. Today, Zoroastrian worship centers can be found in Tehran, where there is the major concentration of Zoroastrians, as well as on the cities of Yazd, Kerman, Shiraz, Isfahan, and Ahvaz. There are still Zoroastrians residing in villages, especially around Yazd.[291]

Zoroastrians do not proselytize, nor do they challenge other religious groups on the basis of theology or political power. Their more diffused distribution within Iran, when compared to Jews and Christians, is in large part due to their historic association with rural and agricultural activities, their original widespread existence in the region, as well as their dispersal during the rise of Islam.[292]

The greatest single holyday of Zoroastrian religious year, Nowruz "New Day," survived the coming of Islam and is still generally celebrated as a delightful secular feast by Shiite Muslims. Boyce highlights that for the Zoroastrians, traditionally, it is a profoundly religious festival, annually prefiguring "the end of time" and the "new day" of eternal blessedness. Hence it is celebrated as joyfully as possible.[293]

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[289] Foltz, Richard. "Zoroastrians in Iran: What Future…" Cit., p. 77.
[290] Mohammad, Hemmasi. *Op. Cit.*, p. 76.
[291] Sanasarian, Eliz. *Op. Cit.*, p. 50.
[292] Mohammad, Hemmasi. *Op. Cit.*, p. 76.
[293] Boyce, Mary. "The Zoroastrians of Iran…" Cit., p. 253.

2) Non-Recognized Religious Minority in the Islamic Republic of Iran

Despite the fact that the Islamic Republic of Iran does officially recognize the above-mentioned religious minorities, it does not extend any formal recognition to other religious minorities, the biggest among which is the Baha'i faith.

2.1) Baha'is

The origins of Baha'ism can be traced back to Shaikhism and Babism, two religious movements in nineteenth-century Iran.

Shaikhism was a movement within Twelver Shi'a Islam whose proponents sought to reinterpret and rationalize the notion of the presumed "occultation" of the Hidden Imam through the presence of a "perfect Shi'i," or a single individual, who during each given era would serve as an intermediary between the community of the faithful and the Hidden Imam.[294]

Babism first developed as a faction of Shaikhism, then departed from it when its young and charismatic leader, Seyed Ali Mohammad Shirazi (1819-1850 C.E.), declared himself to be the "gateway" to the Hidden Imam and later the promised messianic figure himself who, according to conventional Shi'a belief, had been in hiding for a millennium and whose long awaited return would end all injustice in the world.[295]

Shaikhi converts to Babism formed the first nucleus of the new movement and fostered its rapid growth in the early years. Mohammad Shirazi, then known as the *Bab* (Arabic, the door or gate), was able to attract thousands of followers throughout Iran from all social classes, including members of the lower-and middle-

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[294] Smith, Peter. *The Babi and Baha'i Religions: From Messianic Shi'ism to a World Religion*. Cambridge: Cambridge University Press, 1987, pp. 8-13.

[295] Cole, Juan. "Bahai Faith or Bahaism." *Encyclopaedia Iranica*, vol. III, p. 438; Smith, Peter. *Op. Cit.*, pp. 5-71. See also MacEoin, Denis. "Early Shaykhi Reactions to the Bab and his Claims" in Momen, Moojan, and H M. Balyuzi. *Studies in Bábí and Bahá'í History*. Los Angeles: Kalimát Press, 1982, pp. 1-40.

ranking *ulama* and their followers, women, merchants, and peasants, as well as urban masses.[296]

The rapid growth of the Babi movement was, in part, the culmination of the strong messianic currents of mid-nineteenth-century Iran, expressed in popular Sufism with its heightened sense of expectation of the advent of a savior. Babism's belief in the coming of the promised Messiah represented a sweeping break with the past and urged a fundamental paradigm shift within religious tradition; therefore, it called for a revival of the essence of religion and an end to Islamic practices.[297] The Babi movement, with this radical declaration of the coming of a new age, was partly a religious response to Iran's social and cultural crises and to the challenges posed by early manifestation of Western modernity.[298] According to historian Mehrdad Amanat, people of Iran, "*faced with the challenges of modernity, humbled by Western economic and military dominance, and disillusioned by manifestations of social and political stagnation*," were compelled to face a profound identity crisis. For many people, religious conversion became a means of dealing with this crisis and with deeper socio-economic changes the country was experiencing.[299]

During the eighteenth century, after the destructive Afghan invasion and prior to the emergence of the Qajars as new unifying dynasty, Iran suffered periods of instability, civil war, and the disruption of central authority. The resulting vacuum in legal and political authority helped foster the authority of the Shi'a *ulama*. By the middle of the nineteenth century, when the Babi movement was on the rise, a new class of high-ranking *ulama* had emerged, some with enormous wealth and vigorous political influence, who at times challenged the authority of the central government. The privileges of these high-ranking *ulama* created, at the same time, significant tensions among the less advantaged lower ranks, for many saw the increasing power of the *mojtahed* (recognized jurist) élite as a betrayal of their moral leadership.[300]

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[296] Amanat, Mehrdad. *Op. Cit.*, p. 62.
[297] Ibidem.
[298] See Cole, Juan R. *Modernity and the Millennium: The Genesis of the Baha'i Faith in the Nineteenth-Century Middle East*. New York: Columbia University Press, 1998.
[299] Amanat, Mehrdad. *Op. Cit.*, p. 46.
[300] Ivi, p. 62.

Bab followers, establishing a nation-wide movement, explicitly challenged the authority of the powerful Shiite religious leaders. The *ulama,* in fact, theoretically derived their authority from being the representatives of the Hidden Imam on a provisional basis, pending his return. When Sayyid Ali Muhammad Shirazi, in 1843 C.E., first claimed to be the *Bab*, the "gateway" to the Hidden Imam, he clashed immediately with the *ulama*. Furthermore, it was the *ulama* who first encouraged the State to suppress the movement. Professor of Persian and Islamic Studies Hamid Algar considers the failure to completely isolate the *Bab* not only as the expression of the inefficiency of the Qajar administration, but also as its indifference to the support of Shi'a orthodoxy.[301]

The *ulama*, faced with the new Babi movement, could pursue only one of two divergent alternatives: "*to reject as false the Shi'a traditions considering the manner of the appearance of the Hidden Imam, or to consider the Bab a blasphemous apostate.*"[302] While many of the leading Babis were actually drawn from the *ulama*, and while there remained non-Babi *ulama* who regarded the *Bab* himself with certain degree of sympathy, only one *mojtahed*, Aqa Sayyid Husayn Turshizi, joined their ranks.[303] The majority of the *ulama,* in fact, came to oppose Babism, labeling it as a dangerous heresy which threatened the foundations of orthodox Shi'ism.[304] As early as 1845, a *fatva* (legal pronouncement) was signed in Baghdad by the leading cleric of the Shi'a world, condemning the *Bab* to death as an unbeliever, even though this had no binding effect on the *ulama* elsewhere. Again, *fatvas* were issued against the *Bab* in Shiraz, Isfahan, and later in Tabriz, but beyond reflecting the consolidation of anti-Babism sentiment among the Shi'a clergy, they had no immediate effect.[305]

Overall, the *ulama* formulated the most explicit reaction to Babism, out of their concern to preserve the religious uniformity of Iran. The *ulama*, in fact, represented the institutional expression of the power of Islam, the interpreters and guardians of its doctrine, and the enforcers of its law; therefore, among their functions was the confutation of any heresy or doctrinal innovation. On the other hand, Babism, at all

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[301] Algar, Hamid. *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period.* Berkeley: University of California Press, 1969, pp. 139-140.
[302] Ivi, p. 148.
[303] Ivi, p. 147.
[304] Smith, Peter. *Op. Cit.,* p. 19.
[305] Ivi, p. 20.

stages of its doctrinal and social development, was opposed to Islamic orthodoxy, for its claim to validity presupposed the supersession of Islam itself; as a matter of fact, the advent of a new revelation would have superseded the worth of the existing one, which regarded itself as final.[306] The Babi movement rapidly grew more radical, and many of the *Bab*'s followers were interpreting his declaration of the return of the promised Hidden Imam and the advent of a new era as justifications for the abrogation of Islamic *Shari'ah* and the end to Islamic privilege. Furthermore, the Babis viewed the high-ranking *ulama* as corrupted and unreliable, and they tried to eradicate them.[307]

In addition to threatening the legitimacy of the powerful Shi'a clergy, the Babi movement, aspiring to establish a theocratic State, posed an indirect challenge to the authority of the Iranian government. Some followers saw part of their mission as an inevitable confrontation with the Qajar State. In an effort to curtail the insurrections erupting in parts of Iran, the Qajar government executed the *Bab* as a heretic on July 9th, 1850.[308] The combined attack on the State and the clerical Shi'a establishment led to violent confrontations, armed resistance, and eventually to the general persecution of the *Bab*'s followers. After the attempted assassination of Nasr ad-Din Shah by a group of Babis in 1852, this persecution reached its peak in the mass killings of Babis in Tehran and elsewhere. In few years, between 1848 and 1852, the movement was suppressed and forced underground as a result of the effective alliance of the two main sources of authority in Iran, the State and the clergy.[309]

Baha'ism emerged out of the ashes of Babism.[310] In the months before his impending execution, the *Bab* had forbidden his followers from opposing any person who might have claimed to be his successor, the messianic manifestation he had foretold in his writings. This prompted a variety of claims to succession. Eventually, the Babis had to choose between the two sons of a court official who became the main contenders for leadership. Mirza Hosein Ali Nuri (1817–1892), entitled *Baha* (the Light) by the *Bab* and later known as Baha'u'llah, "the Light of God," was recognized as the actual leader of the community. At the same time, however, his

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[306] Algar, Hamid. *Op. Cit.,* p. 137.
[307] Amanat, Mehrdad. *Op. Cit.,* p. 63.
[308] Berry, Adam. "The Baha'i Faith and Its Relationship to Islam, Christianity, and Judaism: a Brief History." *International Social Science Review*. 79 (2004), p. 137. See also Smith, Peter. *Op. Cit.,* pp. 1-2.
[309] Amanat, Mehrdad. *Op. Cit.,* p. 63.
[310] Sanasarian, Eliz. *Op. Cit.,* p. 50.

younger half-brother, Mirza Yahya Nuri (1830-1912), entitled as *Sobh-e Azal* (Morning of Eternity) by the *Bab* and later known as Azal, was also suggested to be the leader of the Babi community. Baha'u'llah, however, attracted to himself the devotion of most of the Babi in Iran, "*mainly through his visionary, non-violent transformation of the original Babi message.*"[311] A tiny remnant of Babis refused to accept Baha'u'llah, and most of them followed his half-brother Azal and became known as Azalis.[312]

As the new Babi leader, Baha'u'llah was imprisoned in Iran in 1852, but soon he was exiled to Baghdad, the provincial capital of Ottoman Iraq, where he abandoned the divided local Babi community and spent two years in seclusion away from his followers, among the Sufis of Kurdistan. From Baghdad, due to the Iranian officials' fear of Babi agitation, the Ottomans further exiled him to other Ottoman cities more distant from Iran: Istanbul first, in 1863, and later that year Edirne in Rumelia, where he stayed till 1868.[313] In Edirne, Baha'u'llah publicly proclaimed that he was the divine manifestation of God, the messianic figure predicted by the *Bab*.[314]

For many Azali partisans in Iran, who found a sense of communal solidarity in their allegiance to the mostly isolated *Sobh-e Azal*, the defeat of Babi militancy gave rise to more radical, even agnostic tendencies, including a total rejection of their Islamic heritage, and the search for a new nationalist identity that was articulated in a call for political agitation and revolution.[315] However, in his long letter from Edirne to Naser ad-Din Shah in 1868, Baha'u'llah proclaimed that the sedition of certain Babis had never been approved by him and that the community, in becoming Baha'is, had ceased to be responsible for unrest in Iran. Baha'u'llah, therefore, made public his complete break with Babi radicalism and violent agitation and with Azalis, the followers of his younger half-brother.[316]

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[311] Amanat, Mehrdad. *Op. Cit.*, p. 64.

[312] Cole, Juan R. I. "Iranian Millenarianism and Democratic Thought in the 19th Century." *International Journal of Middle East Studies*. 24.1 (1992), p. 1. For further information on the Babi movement and the origins of the Baha'i faith, see also Amanat, Abbas. *Resurrection and Renewal: The Making of the Babi Movement in Iran, 1844-1850*. Ithaca: Cornell University Press, 1989. Regarding the declining Azali population, Edward G. Browne, in 1909, estimated that "for every hundred Bahais there were only three or four Azalis (for a total of 2,000 to 4,000 Azalis, if our estimates are correct)." See Cole, Juan R. I. "Iranian Millenarianism and Democratic Thought…" Cit., p. 2.

[313] Amanat, Mehrdad. *Op. Cit.*, p. 65.

[314] Berry, Adam. *Op. Cit.*, p. 137.

[315] Amanat, Mehrdad. *Op. Cit.*, p. 64.

[316] Cole, Juan R. I. "Iranian Millenarianism and Democratic Thought…" Cit., p. 5.

In his letters to other Muslim and European rulers in 1868, Baha'u'llah articulated a new moral faith with an inclusive social message of non-violence and universal peace.[317] Besides Babi ideas, Baha'u'llah was influenced by nineteenth-century Iranian Sufism and the ideas of the European Enlightenment to which he was exposed through his contact with Ottoman intellectuals. His *Ketab-e Aqdas* (Most Holy Book, 1873) outlines religious laws and practices. It advocates progressive ideas such as compulsory universal education and the education of girls. Not only does the book contain more traditional or conventional laws, such as a the inheritance law, but it also advocates progressive ideas such as compulsory universal education and the education of girls. Among the new laws relevant to the condition of religious minorities of Iran, was his call for the elimination of religious and racial prejudice and a complete rejection of the idea of "ritual impurity" (*nejasat*), recalled above in the discussion of the Jewish minority.[318]

Baha'u'llah religious views embraced and recognized other major religions such as Christianity, Judaism, Zoroastrianism, and Islam.[319] He also praised parliamentary government, called for an international collective security order, and denounced the rise and dominance of military ambitions in the West. Moreover, he supported public welfare and lowered taxation through reduction of military expenditure and war efforts. Through a stream of letters to his followers known as "tablets" (*alvah*), he maintained continuous contact with the Babi, and later Baha'i, communities of Iran. A network of emissaries and itinerant advocates propagated his ideas and engaged in debates with the laymen and the clergy.[320]

Baha'u'llah break with his younger half-brother Azal was a defining moment in an often bitter relationship between the respective followers of the two leaders, even as they were exiled to ever more remote Ottoman territories. In 1868, probably pressured by the Iranian government, Ottoman officials exiled Baha'u'llah and most of his entourage from Edirne to a more isolated place, Acre, on the coast of Ottoman Syria, where he spent the rest of his life and died in 1892. Azal was instead exiled to Famagusta in Cyprus. As noted by historian Juan Cole, Baha'u'llah's exile proved

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[317] Smith, Peter. *Op. Cit.*, pp. 1-2.
[318] Amanat, Mehrdad. *Op. Cit.*, p. 65.
[319] Cole, Juan R. *Modernity and the Millennium…Cit.*
[320] Amanat, Mehrdad. *Op. Cit.*, p. 65.

fortunate, because it placed him in the Holy Land near Jerusalem and "*lent the weight of sacred geography to his messianic claims.*"[321]

After a period of harsh confinement, Baha'u'llah gradually came to enjoy more freedom and was able to receive many visitors, including believers from Iran. Most notable among the changes Baha'u'llah introduced was a call to end Babi militancy, violence, and opposition to the State, even though he was not always able to control his followers' unruly behavior. Baha'u'llah's repeated calls for "complete obedience" to governmental authority further distanced the movement from the earlier militant and anti-Qajar positions of many Azali Babis. Early Babi mass conversions throughout Iran were vital to the Baha'i community's social base and its rapid expansion, starting in the 1860s.[322]

Following Baha'u'llah's death in 1892, the religious leadership of the Baha'i community became an arena of controversy and conflict. Baha'u'llah appointed his eldest son 'Abbas Effendi (1844-1921 C.E.), later known by the title of Abdu'l-Baha (servant of Baha), as his successor.[323] Abdu'l Baha's ministry was one of growth and community development. By 1900, Baha'is in Iran probably already numbered between 50,000 and 100,000, in a population of 9 million.[324] At the same time, Baha'ism as a distinct religion grew not only among Muslims, Jews, and Zoroastrians in Iran, but it spread rapidly in already established communities of Baha'i in places such as India and Egypt; from the 1890s to the 1920s it also spread to Europe and North America.[325]

Abdu'l-Baha further developed Baha'i social and political doctrines and strived to detach the new religion from its status as a Shi'ah sect, promoting it, instead, as what the historian Moojan Momen calls a "world religion." His progressive ideas, already outlined before he became the new leader of Baha'ism,[326] included the elimination of racial and gender inequalities, the lessening of economic disparities, the promotion of public education, and world peace. These ideas, defended by Abdu'l-Baha as Baha'i principles during his missionary journeys to Europe and the

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[321] Cole, Juan R. I. "Iranian Millenarianism and Democratic Thought…" Cit., p. 6.
[322] Amanat, Mehrdad. *Op. Cit.,* p. 65.
[323] Sanasarian, Eliz. *Op. Cit.,* p. 51.
[324] Smith, Peter. "A Note on Babi and Baha'i Numbers in Iran." *Iranian Studies.* 17.3 (1984): 295-301.
[325] Sanasarian, Eliz. *Op. Cit.,* p. 50.
[326] See Momen, Moojan. "The Baha'is and the Constitutional Revolution: the Case of Sari, Mazandaran, 1906-1913." *Iranian Studies.* 41.3 (2008), pp. 352-353.

United States (1911-1913), were considered radical even by Western standards. Amanat Mehrdad, for example, recalls how his call for racial equality in the United States and his insistence on racially integrated meetings "*was the subject of some controversy and received much attention.*" The rapid expansion of Baha'ism in these years is attributed, by Amanat, to Abdu'l-Baha's skills in community organization. Following the tradition that Baha'u'llah started before him, he maintained personal communications with his followers through thousands of "tablets" addressed to Baha'is, new converts, and sympathizers.[327]

During the movement for reform in Iran at the end of the nineteenth century and the beginning of the twentieth century, the Baha'i community was at the forefront of introducing progressive ideas and was setting the pace in social reforms, such as the introduction of participatory democracy, the setting up of modern schools, and the advancement of the social role of women. According to Moojan Momen, Baha'i ideas were influencing Iranian society, "*at least that element of society that was interested in reform and progress.*"[328] Although demographically small, the Baha'is represented a new urban, educated population that increasingly found itself in harmony with the demands of a secularizing society. Even if Abdu'l-Baha had instructed the Baha'is not to take part in open defiance of the government, and they did not participate in the street demonstrations and the taking of sanctuary in the British Legation in Tehran in the summer of 1906, they did broadly support the Constitutionalist cause.[329]

The Constitutional Revolution of 1905, in fact, promised protection under the rule of law and an end to multiple and unpredictable sources of coercive authority. The Constitution also promised, and to a limited extent delivered, a greater degree of security for non-Muslims. Although protections under the Constitution were only extended to recognized religious minorities, such as Jews, Christians, and Zoroastrians, Baha'is also benefited from the establishment of a more secularized legal system and a system of government based on the rule of law.[330] However, the opposition of part of the Shi'a clergy continued, especially from those *ulama* who were opposing constitutional and progressive ideas. To the familiar accusations

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[327] Amanat, Mehrdad. *Op. Cit.*, p. 67.
[328] Momen, Moojan. "The Baha'is and the Constitutional Revolution…" Cit., p. 362.
[329] Ivi, p. 353. See also Oberling, Pierre. *Op. Cit.,* p. 13.
[330] Amanat, Mehrdad. *Op. Cit.*, pp. 74-75.

used against heretical groups, such as "*engaging in wife-sharing orgies, dealing in sorcery, using tea as a potion to spellbind potential converts, and even possessing hidden demonic horns and a pointed tail*," more modern and politically charged accusation were delivered against Baha'is, such as "*serving as the agents of one or another colonial power, supposedly in order to undermine Iran's religious and national solidarity.*"[331] One of the accusations directed against the Baha'i reformers by their opponents was that they were "Babis" (the Baha'is were still known as "Babis" by the general population of Iran at this time). Throughout the period of the Constitutional Revolution, for instance, anti-Constitutionalists such as Shaykh Fadlullah Nuri accused the reformers of being Babis, while the troops besieging the Constitutionalists in Tabriz in 1909 were urged on in their efforts by the assertion that they were performing a religiously meritorious service by killing the "Babis" in that city. Given that the "Babis" were considered enemies of Islam and rebels against the Qajar regime, this was a serious accusation and one that was damaging to the reformers personally and to the reform movement as a whole.[332]

Abdu'l Baha became worried about the direction that the political process was taking and declared that Baha'is should dissociate themselves from politics, a policy which gradually crystallized into a Baha'i principle.[333] The majority of the Baha'is took the course of ceasing political activity but continued with elements of the reform process such as support for modern schools. Some Baha'is, such as Sardar Jalil and Huzhabr al-Dawla, however, continued to play an active social and political role in the events that unfolded. It is not clear, according to Moojan Momen, whether they were deliberately disobeying Abdu'l Baha, whether they had not learned of Abdu'l Baha's instructions or whether they were, by virtue of their prominent position and their command of military forces, merely unable to extricate themselves from the political process. With Muhammad 'Ali Shah's coup in June 1908 and the dispersal of the *Majlis*, anti-Constitutionalist elements gained the upper hand throughout Iran. The anti-Constitutionalist and anti-Baha'i cleric, Shaykh Fadlullah Nuri, intensified his activities from his residence in Tehran,

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[331] Ibidem.
[332] Momen, Moojan. "The Baha'is and the Constitutional Revolution…" Cit., p. 344.
[333] Ivi, p. 353. See also Cole, Juan. "Bahai Faith or …" Cit., p. 440.

directing the *ulama* of Mazandaran to issue *fatva* against the Constitution and the Baha'is.[334]

Although Abdu'l-Baha, during the early phase of the Constitutional Revolution, was impressed by the movement's progressive ideas and encouraged Baha'is to participate in the elections to the Constitutional Assembly (*Majlis*) and to elect Baha'i leaders to the body, his enthusiasm seems to have turned into anxiety in the following years. According to Amanat, this happened possibly because he was concerned over Baha'is becoming associated with the revolution and thereby becoming victims of persecution in the midst of revolutionary upheavals and later civil war.[335]

Abdu'l-Baha appointed his grandson, the young Western-educated Shoghi Effendi Rabbani (1897-1957 C.E.), to be the leader after his death, which occurred in 1921. Shoghi Effendi was known as the "Guardian of the Baha'i faith" (*vali-ye amrullah*). His leadership was initially challenged by members of his own extended family and by others who considered his style too bureaucratic and his vision too Western.[336]

During the rule of Reza Shah (1925-1941), direct, violent, and public persecutions ceased. His grand plan for modernization and Westernization of Iran resulted in giving important positions to Baha'is in the civil administration, especially in finance. In the 1930s, nevertheless, the Baha'is became subject to the same restrictions that had been imposed upon legal non-Muslim minorities. One measure was specifically targeted at the community: non-recognition of Baha'i marriages.[337]

By the 1950s, during the reign of Mohammad Reza Shah, Reza Shah' successor, Iran's Baha'i community had lost much of its innovative vigor as advocates of an indigenous modernity and could not match its previous impressive growth of the post-constitutional period. Anti-Baha'i propaganda transformed itself to suit the post-war anti-colonial mood, and started denouncing the Baha'i community, not as religious heretics, but as an "imagined political internal Other," agents of foreign

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[334] Momen, Moojan. "The Baha'is and the Constitutional Revolution..." Cit., pp. 354-355.
[335] Amanat, Mehrdad. *Op. Cit.*, pp. 66-67.
[336] Sanasarian, Eliz. *Op. Cit.*, p. 51.
[337] Ivi, p. 52.

powers. This put an end to mass Baha'i conversions, and even individual conversions to Baha'ism diminished.[338]

In the post-World War II period of relative political freedoms, the Baha'is became more inward-looking and less engaged with new ideas and trends articulated by the left and by nationalist intellectuals. Mehrdad Amanat sees in the preeminence of state-sponsored secular nationalism and in the related modernity discourse under the Pahlavi regime the possible causes for the loss of Baha'is' influence as proponents of modernity. Iran's Baha'is in the second half of the twentieth century were drastically influenced by the rise of Islamic revivalism. Mindful of its own religious legitimacy, the Pahlavi state adopted a general policy of denying Baha'is any recognition in the public sphere, regarding all reference to them as a taboo of sorts. In the decades after World War II, the word "Baha'i" could rarely be uttered. An increasingly organized anti-Baha'i movement led by the *ulama* and other traditionalist elements managed to adapt to the new post-war political environment. After losing much of their authority during decades of disciplined secularization under Reza Shah, the newly revived *ulama* once again managed to gain legitimacy and authority.[339] Persecution of Baha'is during the month of Ramadan in 1955, backed by the *Marja-e Taqlid* (Source of Emulation) of the time, Ayatollah Mohammad Hossein Borujerdi, brought to the physical destruction of the dome of the Baha'i center in Tehran.[340] During the anti-Baha'i persecutions of 1955, when an alliance between the *ulama* and the state threatened the lives of Baha'is, in particular those living in small towns and villages, "*neither the Left nor the nationalists voiced their protest against the religious persecution.*"[341]

Under his rule in the period comprised between 1921 and 1957, the Baha'i leader Shoghi Effendi made important contribution to Baha'i theology, as well as to its administrative system and on directing its missionary efforts.[342] His main focus was to institutionalize and internationalize the Baha'i religion through the establishment of an "Administrative Order" built on a hierarchical network of local and national elected councils, called "Spiritual Assemblies." It is in these elected

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[338] Amanat, Mehrdad. *Op. Cit.*, p. 76.
[339] Ivi, p. 209.
[340] Akhavi, Shahrough. *Religion and Politics in Contemporary Iran: Clergy-state Relations in the Pahlavī Period*. Albany: State University of New York Press, 1980, pp. 76-90.
[341] Amanat, Mehrdad. *Op. Cit.*, p. 209.
[342] Momen, Moojan, and H M. Balyuzi. *Studies in Bábí and Bahá'í... Cit.*, preface viii.

bodies that all authority is vested. There is no priesthood or clergy, and all members of the community are eligible to be elected to these bodies. As part of his effort to further expand the domain of the faith, he produced English translations of many Baha'i scriptures. Shoghi Effendi died in London in 1957, and since he was childless and had excommunicated eligible relatives, there was no one to succeed him. A global congress in London elected members to the newly-instituted Universal House of Justice, the Baha'i supreme religious authority, with its headquarters located in Haifa, Israel. Since 1963, the international Baha'i community has been under the leadership of this body, consisting of nine people elected every five years in a multi-level, secret-ballot election without nominations or campaigns.[343]

Under the Islamic Republic, Baha'ism was officially described as a political movement against the Revolution and Islam. Baha'is for Khomeini were, in fact, a mere political party materializing in Iran to guarantee Zionist domination of the Iranian economy. They were simply an extension of a foreign plot, and both Jews and Baha'is were the oppressors of the Muslim people. He then even prohibited trade with Baha'is.[344] The anti-Baha'i persecutions of post-1979 included trials and executions of Baha'i leaders and randomly selected members of the community. On August 21st, 1980, all nine members of the Baha'i National Spiritual Assembly of Iran were arrested by the Revolutionary Guards and subsequently disappeared. The authorities denied any knowledge of their whereabouts.[345] Nine Baha'is were elected to a new Spiritual Assembly; eight were arrested on December 13th, 1981, and secretly executed two weeks later.[346] The House of the *Bab* in Shiraz, one of the holiest Baha'i shrines, was destroyed, and in June 1983 ten Baha'i women were executed after being tortured. Among the severe measures leveled against the Baha'i community in Iran, Eliz Sanasarian mentions: "*Kidnapping, imprisonment, disappearances, mob attacks, being beaten and dragged into mosques in order to recant the Baha'i faith, confiscation of property, looting and burning of houses and buildings owned by the Baha'is, desecration of Baha'i cemeteries, barring Baha'i professors from teaching and students from being admitted to the universities, and*

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[343] Amanat, Mehrdad. *Op. Cit.,* p. 67.
[344] Sanasarian, Eliz. *Op. Cit.,* p. 30.
[345] Afshari, Reza. *Human Rights in Iran: The Abuse of Cultural Relativism*. Philadelphia, PA: University of Pennsylvania Press, 2001, p. 121.
[346] Sanasarian, Eliz. *Op. Cit.,* p. 116. See also Amanat, Mehrdad. *Op. Cit.*, p. 209.

dismissal of Baha'i teachers and Baha'i students from schools." According to Sanasarian, these measures were "*widespread and systematic.*"[347]

By 1990s, however, some positive ameliorations have been signaled for the Baha'is in Iran: they could bury their dead in some cemeteries, passports were being issued to some of them, their children were permitted to attend grade school and high school, and there was a partial lifting of the ban on meetings. What seemed to be emerging was a slow recognition of the Baha'i presence in Iran without abandoning any official views about their identity. Despite these improvements, institutionalized persecution of Baha'is continued into the late 1990s: Baha'i marriage, divorce, and inheritance rights were not recognized, and they were denied entrance to the institutions of higher education. As underlined by Sanasarian, discrimination remained blatant in the employment of professionals and in the private sectors. Most of their administrative centers, holy places, and cemeteries, if not destroyed, remained confiscated by the State.[348]

Of all non-Muslim religious minorities the persecution of the Baha'is has been the most widespread, systematic, and uninterrupted. In the Middle East, only Israel has recognized the Baha'is as a religious minority. The number of Baha'is in Iran has been reported as approximately 300,000, which, numerically, would make them the largest religious minority in the country. In contrast to other non-Muslim minorities, the Baha'is are spread throughout the country in villages, small towns, and various cities.[349] Their existence, however, has been ignored in the legal system of the Islamic Republic and their rights have been subjected to restrictions. Today, in addition to the above-mentioned city of Acre, Haifa is also significant for Baha'ism, as the remains of the Bab and his devotees were taken and buried there.[350]

[347] Sanasarian, Eliz. *Op. Cit.,* p. 119. See also Afshari, Reza. *Op. Cit.*, pp. 119-128.
[348] Sanasarian, Eliz. *Op. Cit.,* p. 121.
[349] Ivi, p. 53.
[350] Cole, Juan R. *Modernity and the Millennium...Cit*.

Chapter 4

Field Research

The fourth part of the research is devoted to interviews with members of religious and belief minorities in Iran.

The research qualitative approach, the methodology employed for the field research, and a rationale for sampling, data collection, and data analysis will be described at first. A report of each participant's story and the description of the themes that have emerged during the interviews will be then presented.

It is assumed that such field research may provide a more pragmatic framework than the previous theoretical, legal, and historical examinations. How do religious minorities live in Iran? How do they relate to the State, the Shiite majority, and other minority groups? What rights are practically guaranteed to them? Through these interviews, it will be possible to draw final conclusions with respect to the initial hypothesis of the study, i.e. that the restrictions on religious freedom and violation of the rights of religious and belief minorities have not been caused by any inherent contradictions between a particular religious or cultural tradition and modern human rights norms; rather, substantial violations of minority rights have been a consequence of political and constitutional inadequacies and an exclusive emphasis on forging nationhood on the basis of a single and exclusive religious identity.

1) Methodology: In-Depth and Life-History Interviews

The purpose of the field research was to explore and understand the practical life conditions and social experiences of religious and belief minorities in the Islamic Republic of Iran, in light of the previously undertaken analysis on universal human rights, religious minority rights, and freedom of religion and belief. According to sociologist Michael Patton, in any research, "purpose is the controlling force" that leads the researcher to choose the right approach, design a methodology, analyze

the data, and write a report.[1] I will describe in the next sections the different steps I undertook in order to fulfill the field research purpose.

1.1) A Qualitative Approach

A qualitative approach, with its focus on the social world, was deemed the most suitable to achieve the aforementioned research purpose.[2] A qualitative research produces findings by learning about people's social and material situations, life experiences, perspectives, and histories, not through statistical procedures or other means of quantification.[3] A quantitative approach, on the other hand, would have limited participants' choices or responses to more specific, predetermined questions and answers. Quantitative research is, in fact, a formal, objective, systematic process in which numerical data are used to obtain information about the world. This research method is used to describe variables, to examine relationships among variables, and to determine cause-and-effect interaction between variables.[4]

According to anthropologist Pranee Liamputtong, a qualitative approach is more flexible and fluid, and because of its flexibility and fluidity, it is particularly suited to understand the meaning, interpretation, and subjective understanding of the individuals.[5] A qualitative research, essentially, aims to "*capture lived experiences of the social world and the meanings people give these experiences from their own perspective.*"[6] Scholars Norman Denzin and Yvonna Lincoln in their Handbook of Qualitative Research, offer the following definition:

> Qualitative research is a situated activity that locates the observer in the world. It consists of a set of interpretive, material practices that makes the world visible. These practices […] turn the world into a series of representations including field notes, interviews, conversations, photographs, recordings and memos to the self. At this level, qualitative research involves an interpretive, naturalistic approach to the world.

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[1] Patton, Michael Q. *Qualitative Research and Evaluation Method (3rd ed.)*. Thousand Oaks: Sage Publications, 2002, p. 213.

[2] Liamputtong, Pranee. *Qualitative Research Methods*. Oxford: Oxford University Press, 2009.

[3] Strauss, Anselm L., and Juliet M. Corbin. *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. Thousand Oaks: Sage Publications, 1998.

[4] See Burns, Nancy, and Susan K. Grove. *The Practice of Research: Conduct, Critique, and Utilization (5th ed.)*. Philadelphia: Saunders, 2005.

[5] Liamputtong, Pranee. *Op. Cit.* See also Denzin, Norman. K., and Lincoln, Yvonna S. *Handbook of qualitative research (3rd ed.)*. Thousands Oaks, CA: Sage Publication, 2005.

[6] Corti, L., and Thompson, P. "Secondary analysis of archived data" in Seale, Clive. *Qualitative Research Practice*. London: Sage, 2004, p. 326.

This means that qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them.[7]

Therefore, a qualitative research is, in particular, an "interpretive approach" concerned with understanding the meanings which people attach to phenomena (actions, decisions, beliefs, values, etc.) within their social world.[8] Pedagogue Max Van Manen encourages researchers to be both open and creative in finding techniques and methods that are suited for their particular research.[9]

1.2) Individual Interviews

The social world, according to scholars Louis Cohen, Lawrence Manion, and Keith Morrison, can only be "*understood from the standpoint of the individuals who are part of the ongoing action being investigated.*"[10] In order to grasp the complexity of the social world, the individual interview is, therefore, one of the most frequently chosen techniques of qualitative inquiry. More than questions and answers, interviews in qualitative research are seen as "special conversations"[11] where empirical data are collected by inviting individuals to share in depth the perceived realities of their social world.[12] Interviews may take different forms, but "*a key feature is their ability to provide a straight focus on the individual.*"[13] Therefore, they provide an opportunity for a detailed investigation of each participant's personal perspective, in-depth understanding of the context in which the research phenomena are located, and, also, details of the participant's life stories that provide meaning.

Interviewing is an active process where interviewer and interviewee produce knowledge through their conversational relation.[14] This process can be hard,

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[7] Denzin, Norman. K., and Lincoln, Yvonna S. *Op. Cit.*, p. 3.

[8] Ritchie, Jane, and Jane Lewis. *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. London: Sage Publications, 2003, p. 3.

[9] Van Manen, Max. *Researching Lived Experience: Human Science for an Action Sensitive Pedagogy*. Albany, N.Y.: State University of New York Press, 1990.

[10] Cohen, Louis, Lawrence Manion, and Keith Morrison. *Research Methods in Education*. London: RoutledgeFalmer, 2003, p. 19.

[11] See Liamputtong, Pranee, *Op. Cit.*.

[12] Holstein, James A, and Jaber F. Gubrium. *Inside Interviewing: New Lenses, New Concerns*. Thousand Oaks Calif.: Sage Publications, 2003.

[13] Ritchie, Jane, and Jane Lewis. *Op. Cit.*, p. 36.

[14] Kvale, Steinar. *Doing Interviews*. London: Sage Publications, 2007.

demanding, time consuming, labor intensive, expensive, and complicated, as stressed by scholar Irving Seidman, but at the end it is rewarding.[15] It is rewarding because interviews bring out the stories of people. In the context of this field research, stories were understood as a way of knowing, since "*telling stories is essentially a meaning-making process.*"[16] When people tell their stories, they select details of their experience from their stream of consciousness. It is this process of selecting constitutive details of experience, reflecting on them, giving them order, and thereby making sense of them that makes telling stories a meaning-making experience.[17]

1.3) Life-History Methodology

In its original Greek use, the word "method" means "a route to the goal,"[18] which indicates that the researcher actually "*wanders along with the local inhabitants, asking questions that lead the subjects to tell their stories of the lived world, and converses with them in the original Latin meaning of conversation as wandering together.*"[19]   Methods are the range of approaches used in social qualitative research to gather the data which are to be used as a basis for inference and interpretation, for explanation and predication.[20]

In this field research, I drew upon life-history methodology, in the form proposed by Italian methodologist Rita Bichi and other social scientists, in order to gain a deeper understanding of the practical conditions and social experiences of religious and belief minorities in Iran.[21] According to Bichi, this methodology is defined by a low level of standardization and directivity. A life-history interview is,

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[15] Seidman, Irving. *Interviewing As Qualitative Research: A Guide for Researchers in Education and the Social Sciences*. New York: Teachers College Press, 2006.

[16] Ivi, p. 7.

[17] Ibidem.

[18] Kvale, Steinar. *Interviews: An Introduction to Qualitative Research Interviewing*. Thousand Oaks, Calif: Sage Publications, 1996, p. 4.

[19] Warren, C. "Qualitative interviewing" in Gubrium, Jaber F, and James A. Holstein. *Handbook of Interview Research: Context & Method*. Thousand Oaks, Calif: Sage Publications, 2002, p. 86.

[20] Ibidem.

[21] Bichi, Rita. *La Conduzione Delle Interviste Nella Ricerca Sociale*. Roma: Carocci, 2007, pp. 48-54. See also Bertaux, Daniel, and Rita Bichi. *Racconti Di Vita: La Prospettiva Etnosociologica*. Milano: Angeli, 1999.

actually, "*the non-standardized interview par excellence, which seeks to disregard the concepts set and defined by the researcher.*"[22]

It is evident from the term itself that "*life-history is the study of the life experiences of individuals from the perspective of how these individuals interpret and understand the world around them.*"[23] Social scientist John Dollard asserts that life-history allows a researcher to conduct detailed studies of the lives of individuals, particularly those who have been historically marginalized, and to shed light on perspectives that would be otherwise inaccessible to the broader social world.[24]

The life experiences of individuals, especially of those from other cultural contexts, would remain inaccessible without the proper tools and pertinent approaches. Life histories in themselves provide the research with just such a tool as it is "*an entry into a life, a portal into a culture different from that of the reader. Life history texts become vehicles for self-understanding.*"[25] Not only life-history methodology is an effective way to understand an individual's life, but it "*goes beyond the individual and the personal and places the narrative accounts and interpretations within a broader context,*"[26] such as the cultural, political, familial, educational, and religious spheres. Life-history methodology embraces a multidimensional and holistic approach to social research and is an effective tool for exploring the intersections between participants' public, private, cultural, social, and individual lives.[27] Life-history, as methodologist Ivor Goodson argues, has the potential to make a far reaching contribution to the problem of understanding the links between "personal troubles" and "public issues."[28] Therefore, "*life history research draws on individuals' experiences to make broader contextual meaning.*"[29]

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[22] Bichi, Rita. *Op. Cit.*, p. 51.

[23] Borg, Walter R, and Meredith D. Gall. *Educational Research: An Introduction*. New York: Longman, 1996, p. 604.

[24] Dollard, John. *Criteria for the Life History: With Analysis of Six Notable Documents*. New Haven: Pub. for the Institute of Human Relations by Yale University Press, 1935.

[25] Denzin, Norman. K., and Lincoln, Yvonna S. *Op. Cit.*, p. 374.

[26] Cole, Ardra L., and J. G. Knowles. *Lives in Context: The Art of Life History Research*. Walnut Creek, CA: AltaMira Press, 2001, p. 20.

[27] Goodson, Ivor. "The Story of Life History: Origins of the Life History Method in Sociology." *Identity*. 1.2 (2001): 129-142.

[28] Goodson, Ivor. "The Use of Life Histories in the Study of Teaching" in Hammersley, Martyn. *The Ethnography of Schooling: Methodological Issues*. Driffield: Nafferton, 1984, pp. 129-154.

[29] Cole, Ardra L., and J. G. Knowles. *Op. Cit.*, p. 20.

Sociologists Andra Cole and Gary Knowles describe the principles guiding life history research as relationality; mutuality; empathy and the practice of care, respect, and sensitivity.[30]

1.3.1) Relationality

"*At the heart of life history research is the relationship between the researcher and the person being researched.*"[31] As in any other relationship, the relationship between the researcher and the participants, "*demands attention and needs care, thought, sensitivity, respect, and trust in order to develop.*"[32] In sharp contrast to empirical views that require distance and formality, relationality is based on intimacy, trust, and respect for vulnerability.[33]

I had visited Tehran, the capital of the Islamic Republic of Iran, in June 2011, a year before the field research, to attend an international summer school on Human Rights and Cultural Diversity. Since I had already met with some members of religious minorities in that occasion, by the time I started the field research in the summer of 2012, I had good relationship with some of these interviewees. We had, in fact, the chance to keep in touch for a whole year via e-mail and social networking and develop a more intimate and trustful relationship.

With the other members of religious and belief minorities who took part in the interviews, I tried to build up an intimate and trustful relationship in the short time available. Therefore, I generally tried to meet with them at least once before the interview and spend some time with them in order to familiarize with each other. In more than one occasion, I was invited to go to their houses and have dinner with them. In other occasions we went to drink tea or we strolled in a park together. All these moments helped to create intimacy and trust between us, two crucial aspects of the interviewing process which followed.

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[30] Ibidem.
[31] Ivi, p. 145.
[32] Ivi, p. 26.
[33] McIntyre, Maura, and Ardra Cole. "Conversations in Relation: the Research Relationship In/as Artful Self-Study." *Reflective Practice.* 2.1 (2001): 5-25.

1.3.2) Mutuality

Mutuality is "*a natural part of relationship - as part of the conversation-in-relation.*"[34] It also refers to the agreement between the researcher and the participants. As a researcher, instead of informing the participants about what I intended the research to be, I discussed my proposed research with them seeking their input and understanding. After clarifying everything of concern to them, we mutually agreed on what we would be doing together and why. We also discussed and agreed on the times and places for the interviews. This notion of mutuality also included an understanding of possible changes that might occur due to unforeseen reasons as sickness or urgent work obligations.

The participants were informed about the nature of the documentation. I also assured them of the security and confidentiality of the interviews for which they expressed their approval.

1.3.3) Empathy

For Cole and Knowles, empathy is obtained through reflexivity.[35] Reflexivity is "*the capacity to reflect upon one's actions and values during the research, when producing data and writing accounts, and to view the beliefs we hold in the same way that we view the beliefs of others.*"[36] Reflexivity, therefore, is what is required for the development of an empathetic research practice, because telling a life story can be a personal, intimate, and emotional experience.

This expectation of being empathetic is in line with the above-mentioned principle of relationality in which it is required that the researcher empathize with the research participants, especially while sharing sensitive or painful experiences of their lives. Giving my former theoretical and historical analysis and my personal and intense interest on the subject under investigation, I was able to genuinely empathize with the experience of the research participants.

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[34] Ibidem.
[35] Cole, Ardra L., and J. G. Knowles. *Op. Cit.*, p. 43.
[36] Arber, Anne. "Reflexivity." *Journal of Research in Nursing.* 11.2 (2006): 147-157.

1.3.4) Care, Respect and Sensitivity

In life-history research these qualities are "*about the practical, the relational, and the very personal elements of a relationship.*"[37] Thus, these qualities must be infused into relationships. It is important because it is "*the way respect creates symmetry, empathy, and connection in all kinds of relationships*"[38] which creates an atmosphere of greater trust and openness. However, "*these qualities cannot be prescribed, strictly controlled, or intellectually applied; they must be authentically felt and lived.*"[39] It is also necessary that a researcher applies research methods appropriate to the task at hands along with the relational qualities referred to above. "*As with other qualitative methodologies, researchers using a life history method must develop their studies based on good design, reflexive modes of implantation and analysis, and sound ethical principles.*"[40]

1.4) Unstructured, Open-Ended, In-Depth Interviews

Within the framework of life-history methodology, I engaged the field research participants in informal, open-ended, and in-depth interviews. These informal or unstructured, open-ended and in-depth interviews are the best means to understand another person's experience: they offer a maximum flexibility to gather information, and they allow interviewees to be free and expressive in sharing their life stories.[41] An in-depth interview means a one-to-one and a face-to-face interaction between an interviewer and an interviewee to "*seek to build the kind of intimacy that is common for mutual self-discourse.*"[42] The purpose of in-depth interviewing is "*not to get answer to questions, nor to test hypotheses, and not to evaluate*" but to understand and experience other people and the meaning they make of their experience.[43]

Legard, Keegan, and Ward have identified **four key features** of the in-depth interview**,** which are helpful in understanding and utilizing the method. **First** of all,

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[37] Cole, Ardra L., and J. G. Knowles. *Op. Cit.,* p. 43.

[38] Lawrence-Lightfoot, Sara. *Respect: An Exploration*. Reading, Mass: Perseus Books, 1999, p. 9.

[39] Cole, Ardra L., and J. G. Knowles. *Op. Cit.*, p. 44.

[40] Labaree, Robert V. "Encounters with the Library: Understanding Experience Using the Life History Method." *Library Trends*. 55.1 (2006), p. 123.

[41] Patton, Michael Q. *Op. Cit.*.

[42] Johnson, J. M. "In-Depth Interviewing" in Gubrium, Jaber F, and James A. Holstein. *Op. Cit.,* p. 103.

[43] Seidman, Irving. *Op. Cit.*, p. 9.

an in-depth interview is "*intended to combine structure with flexibility.*"[44] Even in the most unstructured interviews, the researcher will have some sense of key topics and issues to be covered during the interview.[45] Therefore, while preparing myself to undertake in-depth life-history interviews, as unstructured and flexible as they could be, I strived to remain focused on my central research topic: universal implementation of minority rights and freedom of religion and belief. A steady focus on this central topic helped me to engage with the participants during the interviews and the narration of their personal experiences.

The **second feature** of the in depth interview, according to Legard, Keegan, and Ward, is that the interview process is created by the interaction of both the researcher and the participants. Interaction is built on open-ended questions that do not "restrict the views of participants."[46] Open-ended questions help the participants to explore whatever direction they choose. Seidman talks about two types of open-ended questions.

The first is called the "grand tour" question in which the researcher asks the participant to "reconstruct a significant segment of an experience."[47] As I interviewed the participants of my research, I asked them to reconstruct their experience as religious or belief minorities from the time they grew up and went to school till the present day.

The second type of open-ended question is focused more on the "*subjective experience of the participant than on the external structure.*"[48] For example, I asked participants to talk about what going to university or what searching for a job as members of religious and belief minorities was like for them. This gave them the opportunity to think and reconstruct their experience and share what seemed important for them without my guidance.

Asking questions is an important part of the interview process, since the nature of the questions plays an important role in shaping the response. According to scholar Steinar Kvale, there are two ways of asking questions in an interview:

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[44] Legard, R., Keegan, J., Ward, K. "In-Depth Interviews" in Ritchie, Jane, and Jane Lewis. *Op. Cit.*, p. 141.
[45] Bichi, Rita. *Op. Cit.,* pp. 50-51.
[46] Creswell, John W. *Educational Research: Planning, Conducting, and Evaluating Quantitative and Qualitative Research*. Upper Saddle River, N.J: Pearson/Merrill Prentice Hall, 2008, p. 213.
[47] Seidman, Irving. *Op. Cit.*, p. 85.
[48] Ibidem.

"thematically" to produce knowledge and "dynamically" to enhance an interpersonal relationship.[49] A good question should be composed of both types.

The principle of the interaction between researcher and participants led me in my operational choices. In fact, I asked introductory questions like:

1. Tell me the story of your life as a member of a particular religious or belief minority.

This is an open-ended question that provides the interviewee with an opportunity to share different narrations about his or her life. It has great potential since it combines both the "grand tour" typology of questions and the subjective one, as well as the above-mentioned thematic and dynamic ways of asking them.

Furthermore, I asked:

2. What does it mean to be a religious minority in the Islamic Republic of Iran?

3. Please, tell me about your life as a student, as a worker, as a person participating in your religious community.

These questions were open-ended to allow participants to talk at great length. Furthermore, as I listened to their stories, I was paying attention to their verbal and non-verbal communication.[50]

A **third feature** of the in-depth interview is the use of follow-up questions.[51] Since the initial response of an interviewee is usually at a surface level, the researcher uses follow-up questions to obtain a deeper and fuller understanding of an interviewee's meaning. Scholar Alan Bryman talks about using follow-up questions to get the participants to say more about the answer they have just given.[52] "*Through a curious, persistent, and critical attitude in the researcher, the participants' answers can be further elaborated.*"[53] This requires the researcher to be an active listener so that he or she can "*move the interview forward as much as*

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[49] Kvale, Steinar. *Doing Interviews…Cit.*, p. 57.
[50] Patton, Michael Q. *Op. Cit.*.
[51] Bichi, Rita. *Op. Cit.*, pp. 51-52.
[52] Bryman, Alan. *Social Research Methods*. Oxford: Oxford University Press, 2008.
[53] Liamputtong, Pranee, *Op. Cit.*, p. 47.

possible by building on what the participant has begun to share."[54]   Listening is, therefore, one of the most important skills during the interview. Robert Atkinson stresses how "*listening well means caring for, respecting and honoring the other person's life and story.*"[55] Moreover, when participants' statements were not clear, I would ask them follow-up questions like "what do you mean by this?" or "could you please tell me more about what you just said?" I used these questions to prompt the participants to further discuss the matter being examined so that a clear understanding could be obtained.[56] Some of the follow-up questions were specific and direct and helped me to gain more specific responses. Most of the research participants were willing to elaborate and explain further in the course of the inquiry. Most of them were also willing to meet with me again, either in person or via e-mail, if I needed their help to clarify matters I had not understood in the interview session.

According to Lenard, Keegan and Ward, a **fourth key feature** of open-ended interviews concerns their ability to be generative "*in the sense that new knowledge or thoughts is likely, at some stage, to be created.*"[57] Not only does the researcher help the participant to tell the story, but she or he remains central in the process of generating new knowledge: it is therefore worth highlighting how *"[...] It is an inter-view, where knowledge is constructed in the inter-action between the interviewer and the interviewee.*"[58]

1.5) Trustworthiness

A critical aspect of trustworthiness in quantitative studies is replicability. However, in qualitative studies, replicability "*is impossible, given the context-boundedness of qualitative studies.*"[59] Nevertheless, if qualitative studies are to be taken seriously, qualitative researchers must demonstrate that their methods and findings are worth of consideration. As noted by different scholars such as Elizabeth

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[54] Seidman, Irving. *Op. Cit.*, p. 81.
[55] Atkinson, Robert. *The Life Story Interview*. Thousand Oaks, Calif: Sage Publications, 1998, p. 35.
[56] Liamputtong, Pranee, *Op. Cit.*.
[57] Legard, R., Keegan, J., Ward, K. "In-Depth Interviews…" Cit., p. 142.
[58] Kvale, Steinar, and Svend Brinkmann. *Interviews: Learning the Craft of Qualitative Research Interviewing*. Los Angeles: Sage Publications, 2009. p. 2.
[59] Whitt, Elizabeth J. "Artful Science: a Primer on Qualitative Research Methods." *Journal of College Student Development*. 32.5 (1991), p. 413.

Whitt[60] and later by Alison Twycross and Linda Shields[61], methodologists Yvonna Lincoln and Egon Guba theorized the standard of trustworthiness in order to bring legitimacy to the work of qualitative researchers. According to Lincoln and Guba, trustworthiness is established through credibility, transferability, dependability, and confirmability.[62] Patton argued that Lincoln's and Guba's standard replaces "*the traditional mandate to be objective […] by being balanced, fair, and conscientious in taking account of multiple perspectives, multiple interest, and multiple realities.*"[63] For the purpose of this field research credibility, dependability and confirmability were used to established trustworthiness.

As far as credibility is concerned, scholar Thomas Schwandt explains that its role is to ensure that the researcher accurately represents the experiences of the respondents when the interviews are reconstructed and reported.[64] Schwandt also points out that "*the importance of obtaining information and feedback from insiders throughout the process of data collection and analysis- not only about the phenomena but also about the researcher's emerging interpretations and understandings- cannot be overemphasized.*"[65] Trying to follow this recommendation, I actively asked follow-up questions and used paraphrasing to check my understanding and to allow respondents the opportunity to provide corrective feedback if necessary.

As for the concept of dependability, it is assessed when a researcher provides evidence of the "*appropriateness of the inquiry decisions made throughout the study.*"[66] Dependability is often referred to as "auditability."[67] The researcher should establish an audit trail, or scrutiny trail, that documents the research process and evolving decision-making. Whitt explained that the audit trial established by the researcher should include "*raw data (transcriptions and notes from interviews and observations), products of data analysis and synthesis (all phases of category-development and themes), process notes (including decisions about research strategies*

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[60] Ibidem.

[61] Twycross A., and L. Shields. "Reliability and Validity in Practice: Assessment Tools." *Paediatric Nursing*. 17.9 (2005).

[62] Lincoln, Yvonna S, and Egon G. Guba. *Naturalistic Inquiry*. Beverly Hills, Calif: Sage Publications, 1985.

[63] Patton, Michael Q. *Op. Cit.*, p. 575.

[64] Schwandt, Thomas A. *Dictionary of Qualitative Inquiry*. Thousand Oaks, Calif: Sage Publications, 2001, p. 413.

[65] Ibidem.

[66] Whitt, Elizabeth J. *Op. Cit.*, p. 413.

[67] Twycross A., and L. Shields. *Op. Cit.*.

and researcher reflections, questions, and insights), and materials relating to the intentions of the research, such as notes and journals."[68]

As far as the principle of confirmability is concerned, the reflexive research journal was of great use in enhancing the study's confirmability because it allowed for ongoing documentation and reflection upon the research's schedule, methods, and data collection processes. The personal journal that I employed allowed me to reflect upon any biases that might spoil the research, and through this on-going reflection process any potential biases were minimized. Furthermore, data-triangulation contributed to the confirmability of the field research. To check for consistency, I compared my notes from the field and my research journal to the transcribed interview stories.

1.6) Chronology of the Field Research

Data and interviews for the field research were collected in June and July 2012. Prior to June 2012, I had made another visit to Iran in June 2011 when I attended a summer school on Human Rights and Cultural Diversity in Tehran. This school was organized by the UNESCO Chair in Human Rights, Peace, and Democracy of Shahid Beheshti University and by the NAM Center for Human Rights and Cultural Diversity. During this summer school, I had the chance of comparing with other students and professors different perspectives on universal human rights, cultural diversity, and the protection of religious minorities. These subject matters were thoroughly tackled during the summer school and, at the same time, the perspective of the Islamic Republic of Iran on the very same issues emerged in the discussions. This experience deepened my interest both for the human rights' theory and for the experience of religious and belief minorities in Iran. It also allowed me to meet with Iranian professors and Iranian students who are interested in the same field of research.

Between June 2011 and June 2012, I kept in touch with these professors and students, and I prepared the theoretical and historical framework of my dissertation. The acquaintance with some Iranian professors and students on the one hand, and with the theoretical and juridical standpoints of the Islamic Republic

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[68] Whitt, Elizabeth J. *Op. Cit.,* pp. 413- 414.

of Iran concerning human rights and religious minorities on the other hand, turned out to be of crucial importance during my field research in the months of June and July 2012.

1.7) Participant Selection and Sample Size

The precise or exact number of subjects to be interviewed when employing a life-history methodology cannot be planned. It evolves during the research process.[69] According to Patton, "*there are no rules for sample size in qualitative inquiry. [...] In-depth information from a small number of people can be very valuable, especially if the cases are information rich.*"[70] He further explains that "*the validity, meaningfulness, and insights generated from qualitative inquiry have more to do with the information richness of the cases selected and the observational and analytical capabilities of the researcher than with sample size.*"[71] For this reason, the sample size for the field research was determined by saturation, that is when the data collected start to become repetitive, and new or relevant data do not emerge anymore from the interviews. It was essential, however, to interview enough members of religious and belief minorities so that a clear picture of the experiences that determine whether or not this portion of the Iranian population enjoys freedom of religion and belief and other universal human rights was obtained. Therefore, I planned to interview at least two members for each main religious minority (Christians, Jews, Zoroastrians, and Baha'is), some members of the Islamic faith who converted to another religion, and some atheists/agnostics, for a total of 15 to 20 interviews.

As I arrived in Tehran at the beginning of June 2012, I immediately got hold of the people met in June 2011 during my first visit in Iran. One of them was a member of a religious minority, Baha'ism, and thanks to her help I was able to meet other members of the Baha'i faith. Another person I met in 2011 suggested me where to find in Tehran the cultural centers or the places of worship of some religious minorities, like Armenians, Jews, and Zoroastrians. Finally, one of the professors who organized the international summer school on Human Rights and Cultural

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[69] Strauss, Anselm L., and Juliet M. Corbin. *Op. Cit.*.
[70] Patton, Michael Q. *Op. Cit.*, p. 244.
[71] Ivi, p. 245.

Diversity in 2011 put me in touch with a member of the Armenian church committed to promote human rights in Iran. These initial forms of advice and collaboration have proven crucial in the start-off of my fieldwork.

In general, a rule that I followed was the following: I would meet with potential interviewees at least once before I scheduled the interviews, as I wanted to create a personal connection with them and explain them the reasons and purposes of my field research. Therefore, I was able to create a more trustful and intimate relationship with them.

After that, once the interview had taken place, I would ask the participants if they knew other people within their faith community who would be willing to participate in my research. In this way, I was able to get in touch with other members of religious and faith minorities. Also, visiting some of the most important cultural centers and places of worship of religious minorities in Tehran, like Armenian Churches, the Zoroastrian Fire Temple, and the Jewish Synagogue, has proven to be another important way to meet members of religious minorities.

Due to the sensitive nature of the research topic, not all the people I met eventually agreed to be interviewed. Some of them explicitly declared to worry for their safety, others did not show up at the appointment or did not reply to my e-mails or phone calls. Among those people I interviewed, many asked me to turn off my cellphone and to take out the battery and the sim card before starting the interview; they were concerned with the possibility of being heard or wiretapped during our conversation. These different behaviors and precautions probably mirror a tense political situation within the Islamic Republic of Iran; a situation that pressures people not to share with foreigners their plights or to be extremely cautious for fear of political repercussions.

Eventually, the research consisted of 18 participants and interviews: 5 Baha'is, 4 Armenians, 3 Zoroastrians, 2 Jews, 2 Muslims who converted to other faiths (one became Christian and the other one became Baha'i), and 2 atheist/agnostics. Having access to these participants was closely linked, in most cases, to my own gender and age. Most of the participants were, in fact, men (17 out of 18) in their twenties (11 out of 18).

1.8) Selection of Research Sites

All the interviews took place in Tehran, the capital of the Islamic Republic of Iran, even though not all the participants grew up there (7 out of 18 grew up in other major Iranian cities). I chose to conduct the interviews in Tehran for two main reasons: first of all, Tehran is where most of the members of religious and belief minorities live; secondly, it is in the capital city where the effects of social and political policies are more notable. [72]

Public settings, like parks and squares, were the most accessible places to realize the interviews. Quasi-public settings, such as coffee-shops and restaurants, also presented interesting locations for the research. I usually let the participants choose the location of the interview according to their preferences. Most times, they chose to go to a public park; other times, we went to drink a coffee in a coffee shop or to eat something in a restaurant; in few occasions we stayed in the building of their religious community, like the Armenian Church or the Zoroastrian Fire Temple. Probably, the participants belonging to these two faith communities felt more confident than other interviewees to stay in their community buildings and perceived them as appropriate places where to carry out our conversations. On the other hand, one of the Jewish participant pointed out how security agents are sent by the government to patrol outside the synagogues to check who enters and, therefore, preferred to go to a public park to realize the interview.

A couple of times, I was invited to the participants' house. In a megalopolis like Tehran, where millions of people live, the traffic of cars, buses, and motorcycles is overwhelming, the pollution which follows is suffocating, and the summer heat and humidity are sweltering. Since the main squares and streets are patrolled by armed *basij*[73] squads, other places were selected in order to afford some degrees of privacy and intimacy between me and the participants; it was essential to find places of relative calm and tranquility where to conduct the interviews.

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[72] See Sanasarian, Eliz. *Religious Minorities in Iran*. Cambridge: Cambridge University Press, 2000.

[73] The "people's militia" was established on April 30, 1980. *Basij* is the name of the force; a *basiji* is an individual member. To learn more about their internal structure and their role in the Iranian politics and society see Wright, Robin B. *The Iran Primer: Power, Politics, and U.S. Policy*. Washington, D.C: United States Institute of Peace, 2010. pp. 62-65

1.9) The Role of the Researcher

The researcher, in any qualitative research, is not only the person who collects the data but is also the subject who brings his or her whole self into the research relationship.[74] A qualitative research is not carried out in isolation; it would be difficult to accomplish interactive face-to-face interpretive research by phone and build a researcher-participant relationship at the same time.[75] The researcher is "*referred to as the instrument of research, in the sense that the researcher is seen as the instrument of decision-making throughout the research process, becoming an integral part of both the research process and the knowledge generated.*"[76]

In the preparation for the field research, I was conscious of the necessity of not being too rigid about expectations from the participants and also about the use of particular tools and strategies during the interviews. I faced the first challenge when the participants asked me not to use the voice recorder, an instrument that I had deemed necessary for the conduct of the interviews. The participants did not feel comfortable with it and feared that someone else could recognize their voices. Therefore, I agreed to interview them without recording. I realized that in the field the researcher simply has to be flexible and ready to change and adapt. As Cole and Knowles suggest, in such situations "*the alternative is to make notes along the way.*"[77] Participants did not have objections when I took notes during interview sessions. In the course of the interviews, I also came to realize some of the advantages of interviewing without the help of a voice recorder. Most times, in fact, the interview did not end when the formal talk ended, as I was often invited to drink a cup of tea or eat a snack in a café during which the conversation continued. The participants often shared important insights during these informal settings which a voice recorder would have missed. Nonetheless, I became very careful in writing down the interviews with my comments about emotions, pauses, tone, etc. In some ways, interviewing without the help of a recorder helped me to be an even more attentive

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[74] Kvale, Steinar. *Interviews: An Introduction to Qualitative…Cit.*. See also Rubin, Herbert J, and Irene Rubin. *Qualitative Interviewing: The Art of Hearing Data*. Thousand Oaks: Sage Publications, 1995, and Bichi, Rita. *Op. Cit.*, pp. 79-89.

[75] Lewis, Jane. "Design Issues" in Ritchie, Jane, and Jane Lewis. *Op. Cit.*, pp. 46-76.

[76] Merchant, Niloufer, and Paula Dupuy. "Multicultural Counseling and Qualitative Research: Shared Worldview and Skills." *Journal of Counseling & Development*. 74.6 (1996), p. 540.

[77] Cole, Ardra L., and J. G. Knowles. *Op. Cit.*, p. 77.

and involved listener. I also strived to be diligent in writing down the encounter's contents, comments, and my reflection right after each interview.[78]

1.10) Data Collection and Guide Questions

In-depth interviewing was the primary means for data collection during the field research. This method of interviewing was situated within the life-history methodology in order to achieve a more conversational rather than didactic style of interviewing.[79] As already stated above, while in a more structured interview the researcher tries to elicit choices among various alternatives to preformed questions, the in-depth interview tries to discover the participant's experiences from his or her own perspectives and defined by his or her own choices and sets of alternatives.[80] The objective of the in-depth interview process was to draw from the participants context-rich and detailed information about their experience in Iran as religious and belief minorities and use this information for qualitative analysis to assess whether or not this portion of the Iranian population enjoys freedom of religion and belief and other universal minority rights.

Life-history methodology is an open process, but at the same time it needs to be focused. It was basically a guided conversation between me, as the researcher, and the members of religious and belief minorities who were being interviewed. Each interview, although characterized by a low level of standardization and directivity, was focused through a set of guide questions and topics. However, I did not ask the questions one after the other during the interview, but I placed them before me to keep the interview focused.

Instead of formally asking participants for in-depth interviews, I shared with them my desire to listen to their life experiences as religious and belief minorities in Iran. At first, I explained to them individually the purpose of the interviews and of my work as a researcher. I made it as clear as possible that they were free to share anything that they had experienced, and I also told them that they were equally free

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[78] See Daly, Kerry J. *Qualitative Methods for Family Studies & Human Development*. Los Angeles: Sage Publications, 2007.

[79] Goodson, Ivor. "The Story of Life History…" Cit., pp. 136-137.

[80] See Lofland, John. *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis*. Belmont Cal.: Wadsworth Publishing Company, 1971.

not to share anything that they thought should not be shared. I did everything I could to reassure them that they were in charge of the interviews. I was also intentional about assuring them of the confidentiality of all the information that they would share with me.

The matter of confidentiality was strictly between me and the participants, since I decided not to employ the help of any interpreter. On the one hand, the decision of not having an interpreter was important because sometimes the use of an interpreter may lead the researcher to become "*vulnerable to an added layer of meanings, biases, and interpretation that may lead to disastrous misunderstandings.*"[81] If I did not understand a concept the participants were trying to express, I could ask them to repeat or paraphrase. On the other hand, however, this decision limited and selected the sample of people I could interview. Since the level of my *Farsi* was too elementary to conduct any in-depth interview, I had to conduct all the interviews in English; therefore, the only people I interviewed were able to fluently communicate with me in English and belonged to that segment of the Iranian society mostly composed by higher educated-middle class people.

Each participant was interviewed for a length of no less than an hour but no more than two hours. Due to the sensitive nature of the research topic and the personal nature of the reported stories, each participant has been assigned with a pseudonym to protect his or her identity, privacy, and safety.

I took notes of all the interviews, and I later transcribed them on my computer. I read the transcript of each interview several times to look for themes, commonalities, and differences. Immediately following the individual interviews, I recorded my initial reactions and reflections in a research journal. Once interviews were transcribed, they were analyzed. This process of data analysis of each interview, as it will be further explained in the next section, was completed before conducting the next interview. After reviewing the transcriptions, follow up interviews and informal conversations, either face to face or over the e-mail, were done for clarification and further examination of some issues raised during the first interview.

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[81] Frey, J. H., and Fontana, A. "Interviewing: The Art of Science" in Denzin, Norman. K., and Lincoln, Yvonna S. *Op. Cit.*, p. 367.

As pointed out above, the interview questions were meant to be a starting point and provided a guide to keep the interviews focused. However, both Whitt and Patton recommend the need for "emergent design flexibility" during the interview process.[82] Whitt encourages the researcher to develop initial interview questions based on his or her knowledge of the phenomena, "*then, as the study progresses, questions can be added as needed for clarification, such as when contradictory information is obtained, or to obtain additional information.*"[83] Additionally, Patton argues that the researcher needs to avoid "*getting locked into rigid designs that eliminate responsiveness and pursue new paths of discovery as they emerge.*"[84] While no additional interview questions were added to the study, there were times when I had to ask participants follow-up questions to clarify or elaborate on responses to the existing interview questions and topics.

Guide questions and topics were first developed using themes from the human rights' theory and the international human rights' law discussed in Chapter 1 and Chapter 2. The guide questions were geared towards finding answers to four major research topics. The first topic confronts one of the fundamental principle in modern human rights theory, that of equality. The second topic tackles the *forum internum* of religion, related to the freedom to hold the belief of one's choice and to change that belief. The third and fourth research topics deal with the *forum externum* of religion, or the freedom to manifest, profess, and practice one's own religion or belief. Since the *forum externum* touches more aspects of one person's experience, more guide questions were developed in order to cover all the different aspects of these last two topics.

The four major topics were developed as follow:

1_ The non-discrimination and full equality principle.

As we stated before in Chapter 2, the protection against discrimination is one of the most important safeguards for religious and belief minorities in the enjoyment of their rights. "*All the relevant international human rights documents and national constitutions consistently and explicitly provide for this fundamental principle.*"[85]

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82 See Whitt, Elizabeth J. *Op. Cit.* and Patton, Michael Q., *Op. Cit.*.
83 Whitt, Elizabeth J. *Op. Cit.*, p. 411.
84 Patton, Michael Q. *Op. Cit.*, p. 40.
85 An-Na´im Abdullahi Ahmed, "Religious Minorities Under Islamic Law and the Limits of Cultural Relativism." *Human Rights Quarterly*. 9.1 (1987), pp. 7-8.

Article 55(c) of the United Nations Charter commits the United Nations to promote "*universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.*"[86] Article 2 of the Universal Declaration of Human Rights reiterates the principle expressed in Article 55(c) of the UN Charter, stressing how rights and freedoms belong to every human being "*without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*"[87] Furthermore, the 1966 Covenants on Economic, Social, and Cultural Rights (ICESCR) as well as that on Civil and Political Rights (ICCPR) reinforce the moral and political impact of the Universal Declaration concerning the principle of non-discrimination. In the ICCPR, Article 2(1) forbids distinctions on the basis of religion; Article 24(1) forbids discrimination as to religion and Article 26 covers equality before the law and equal protection of the law without discrimination. Articles 2(2) and 13(1) of the ICESCR also raise the issue of non-discrimination on the basis of religion with respect to the guarantee of the rights in that Covenant and to education, respectively. Article 2(2) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief defines "*intolerance and discrimination based on religion or belief*" as "*any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.*"[88] Finally, the Human Rights Committee in General Comment No. 22 on Article 18 of the ICCPR stated that the fact that a religion is recognized as a State religion, or that its followers comprise a majority of the population shall not result in any privileges for this religion or discrimination against adherents to other religions or non-believers.[89]

From this fundamental principle, guide questions were developed as follows:

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[86] Article 55(c), the United Nations Charter, accessed 9 September, 2012, See http://www.un.org/en/documents/charter/chapter9.shtml

[87] Article 2, Universal Declaration of Human Rights, accessed 9 September, 2012, See http://www.un.org/en/documents/udhr/

[88] Article 2(2), Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, accessed 10 March, 2012, http://www.un.org/documents/ga/res/36/a36r055.htm

[89] See Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 5, accessed September, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15

I. How would you assess the equality of your rights as a member of a religious or a belief minority compared to other Iranian citizens?

II. Would you explain and bring me some examples?

2_ The right to change one's religion or belief and the freedom to have or to adopt a religion or a belief of one's choice.

Article 18 of the Universal Declaration of Human Rights guarantees the right to everyone to adopt and change his or her own religious belief without fear of government interference. This right was later articulated in the legally binding Article 18 of the International Covenant on Civil and Political Rights, which provides the "*freedom to have or to adopt a religion or belief of his choice*" and that "*no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*"[90] Furthermore, we saw how the Human Rights Committee in General Comment No. 22 indicated that "*the article protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The term belief and religion are to be broadly constructed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.*"[91]

As a consequence of this right, I developed these two guide questions:

III. Would it be possible for you to change your religion or belief?

IV. Would it be possible for others to adhere to your religion or belief?

3_ The freedom to manifest one's religion or belief in worship, observance, practice and teaching.

Article 18 of the ICCPR provides for this freedom, either individually or in community with others and in public or private. Furthermore, General Comment No. 22 on this article has given an indicative list of acts constituting worship and practice. General Comment No. 22 identifies as part of worship those "*rituals and ceremonial acts giving direct expression to belief, as well as various practices integral*

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[90] Article 18, International Covenant on Civil and Political Rights, accessed 9 September, 2012, http://www2.ohchr.org/english/law/ccpr.htm

[91] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 5, accessed) September, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15

to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holydays and days of rest." Furthermore, observance and practice may also include, besides ceremonial acts, such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group. Under the practice, the Comment further includes activities that are integral to the conduct by religious groups of their basic affairs, such as religious teaching, the freedom to choose their religious leaders, clergy, and teachers, the freedom to establish seminaries or religious schools, and the freedom to prepare and distribute religious texts or publications.[92]

Finally, Article 6 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief articulates the different forms of manifestation of a religion or a belief, which includes "*[t]he freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes; to establish and maintain appropriate charitable or humanitarian institutions; to make, acquire, and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief; to write, issue, and disseminate relevant publications in these areas; to teach a religion or belief in places suitable for these purposes; to solicit and receive voluntary financial and other contributions from individuals and institutions; to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion of belief; to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.*"[93]

From these freedoms, the following guide questions emerged:

V. How do you practice your religion or belief?

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[92] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 4, accessed 9 September, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15
[93] Article 6, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, accessed 9 September, 2012, http://www2.ohchr.org/english/law/religion.htm

VI. Can you and other people freely attend places of worship of your religion or belief?

VII. Do you think that the State hinders these practices, even indirectly e.g. strict regulatory laws?

VIII. Are you allowed to teach your religion or belief?

IX. Can you give me some examples?

4_ The right to enjoy one's own culture, to profess one's own religion or belief, and to use one's own language .

Article 27 of the ICCPR and Article 2 (1) of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities provide for these rights.

I derived from these rights the following guide questions:

X. Do you freely profess (i.e. "proselytism" and "missionary work") your own religion?

XI. Can you give me some examples?

XII. Do you freely speak and use the language of your religion or belief (if such language is provided for worship purposes)?

XIII. Can you give me some examples?

XIV. Do you think it is possible to enjoy your own cultural tradition in Iran?

I printed out a list with these guide questions and I kept it in front of me during the interviews to check if the participants were discussing these important topics.

For all the participants, I began the interview with this opening statement: I am interested in what your experience as a religious or belief minority living in the Islamic Republic of Iran is like, from the time you grew up and went to school to the present time. Given this opener, all of the 18 interviewees provided detailed and articulated descriptions of their experiences. In most cases, the participants gave me the answers to the guide questions even without me asking them. Except for two or three rather shy participants, I found that they were very eloquent and open about

their lives so that most of the time I just needed one or two probes either for clarification about their statements or for further information about a certain topic or aspect of their lives.

Data collection reached a saturation point by the last few interviews where the same themes repeatedly appeared without adding new themes.[94]

1.11) Data Analysis

Data analysis is "*the process of making sense of the data and discovering what it has to say.*"[95] At the stage of analyzing and studying the data comes the major responsibility for interpretation for the researcher.[96] "*The identification of major themes, patterns, issues, events, sequences of events and their meaning is his or her prerogative.*"[97] "*Data don't speak for themselves, we have to guide them into saying things.*"[98] Therefore, the researcher constructs the themes and ideas, and this is his major contribution.[99] The first step for such construction is to exercise judgment about what is significant in the transcript.[100] I consider data analysis as the process whereby the researcher turns the data into "*a clear, understandable, insightful, trustworthy and even original analysis.*"[101]

As stated above, data analysis of the field research began at the completion of the first interview in order to progressively focus the interviews and to gain theoretical sensitivity.[102] It is helpful, as suggested by Liamputtong, to begin data analysis from the beginning of the research.[103] Given the long and intensive process of interviewing it was impossible for me to postpone the analysis of interview data to the very end, in fact:

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[94] See Creswell, John W, and Clark V. L. Plano. *Designing and Conducting Mixed Methods Research*. Los Angeles: SAGE Publications, 2011.

[95] Holliday, Adrian. *Doing and Writing Qualitative Research*. London: Sage, 2007, p. 89.

[96] Butt, R. "Studying the Nature and Development of Teachers' Knowledge Using Collaborative Autobiography." *International Journal of Educational Research*. 13.4 (1989), p. 407.

[97] Ibidem.

[98] Richards, Lyn. *Handling Qualitative Data: A Practical Guide*. London: Sage Publications, 2009, p. 73.

[99] Balani, V. *Listen to our lives: life histories of five women from the Bhilala tribe in rural Madhya Prades, India*. Thesis (Ph.D.), University of Minnesota, 2000.

[100] Seidman, Irving. *Op. Cit.*, p. 113.

[101] Gibbs, Graham. *Analyzing Qualitative Data*. Los Angeles: SAGE Publications, 2007, p. 1.

[102] Glaser, Barney G. *Theoretical Sensitivity: Advances in the Methodology of Grounded Theory*. Mill Valley, Calif: Sociology Press, 1978.

[103] See Liamputtong, Pranee, *Op. Cit.*.

It is difficult to separate the processes of gathering and analyzing data. Even before the actual interviews begin, the researcher may anticipate results on basis of his or her reading and preparation for the study. Once the interviews commence, the researcher cannot help but work with the material as it comes. During the interview, the researcher is processing what the participant is saying in order to keep the interview moving forward.[104]

In fact, the analysis of early interview data helped me to develop a scheme for the organization of the information that proved manageable even as the information accumulated. Initial analysis also gave a directionality to the research that kept the purpose of the study in focus. However, the bulk of the analysis was done only when the interviews were completed and all the data gathered.

Each interview was transcribed on my computer. Data analysis included reading the interviews and searching for consistencies, reviewing field notes and reflecting on observations made during the interviews. Field notes included data regarding and among other things, a description of the setting where the interview took place, a physical description of the participants, nonverbal communication by the participants, and my feelings during the interview. After the interview was finished, further field notes, including the researcher's afterthoughts about the interview and things to remember for the following interview, were immediately written down.

Analysis and interpretation of transcription and field notes were done paragraph by paragraph and topic by topic, allowing for the identification of themes. Through the analysis process, notes were taken to focus on tentative categories or relationships; therefore, I was able to conceptually organize the data, divide them into manageable text segments, and discover overlapping themes.[105] Key participant quotes that support emerging themes were circled.[106] Methodologist John Creswell notes that "*the identification of themes provides the complexity of a story and adds depth to the insight about understanding individual experiences.*"[107]

One goal of the researcher in choosing what is of interest in the interview transcriptions is to reduce and give shape to the material in a form which can be

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[104] Seidman, Irving. *Op. Cit.*, p. 113.
[105] Creswell, John W. *Op. Cit.*, p. 252.
[106] Ibidem.
[107] Ivi, p. 521.

shared.[108] Therefore, after analyzing the data, I chose two ways to share interview data. First, I reported the life-histories of the participants and, second, I developed themes.

Honoring the participants' courage in taking the risk of talking to me, I hope to report their stories as much accurately as I can. Most importantly, I want to address the ways in which these stories answer the question of what it looks like to be part of a religious and belief minority in the Islamic Republic of Iran.

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[108] See Miles, Matthew B, and A M. Huberman. *Qualitative Data Analysis: An Expanded Sourcebook*. Thousand Oaks: Sage Publications, 1994.

Table 1: Summary of the characteristics of the participants

Name (pseudonym)	Par.	Religion/Faith	Sex	Age	Profession
Nouri	2.1	Armenian	Male	In his 50s	Priest
Reza	2.2	Armenian	Male	In his 30s	Engineer
Parviz	2.3	Armenian	Male	In his 60s	Priest
Sami	2.4	Armenian	Male	In his 20s	Photographer
Youness	2.5	Jew	Male	In his 20s	Student
Rostam	2.6	Jew	Male	In his 20s	Student
Mehrab	2.7	Zoroastrian	Male	In his 20s	Engineer/Priest
Kia	2.8	Zoroastrian	Male	In his 70s	Engineer/Priest
Babak	2.9	Zoroastrian	Male	In his 40s	Pharmacist
Cyrus	2.10	Baha'i	Male	In his 20s	Employee
Farshad	2.11	Baha'i	Male	In his 30s	Teacher
Ali	2.12	Baha'i	Male	In his 60s	Merchant
Bardia	2.13	Baha'i	Male	In his 20s	Student
Marjan	2.14	Baha'i	Female	In her 20s	Student
Hafez	2.15	Convert to Christianity	Male	In his 20s	Student
Kaveh	2.16	Convert to Baha'ism	Male	In his 20s	Engineer
Mojtaba	2.17	Atheist/Agnostic	Male	In his 20s	Graphic designer
Mohsen	2.18	Atheist/Agnostic	Male	In his 20s	Student

2) Life-History Reports

The reports of the life-history interviews have been organized according to the religious or belief affiliation of the participants. First, 9 stories of members of officially recognized religious minorities are introduced: Christian-Armenians (4), Jews (2), and Zoroastrians (3); then, 9 stories of members of non-recognized religious or belief minorities are presented: Baha'is (5), Muslims who converted to another religion (2), and atheists/agnostics (2). This way, it should be easier for the reader to correlate experiences and to start looking for common themes, which will be discussed in the next section.

A brief introduction to the location, the date, and the atmosphere of the interview is offered at the beginning of each report. As already mentioned above, name of the interviewees are pseudonyms; specific names of locations, cities, or places mentioned during the interviews have been omitted or changed in order to afford the participants more privacy and anonymity. The fact than I am a male student in my 20s restricted in most of the cases the sample of the interviewees: most of them are male (17 out of 18), in their 20s (11 out of 18), and university students (6 out of 18).

2.1) Nouri

It is Friday morning, June 15th, 2012. I am in one of the main Armenian Churches in Tehran, during the celebration of Mass. I sit on one of the benches at the end of the Church and attend the ceremony till it is finished. The Church is almost empty, and most of the attendants are elderly. I can count only a couple of people who are less than 30 years old. People keep coming and going during the celebration; some of them stop by a side-altar, light a candle, and say a prayer before going out of the Church. Inside the Church there is a strong smell of incense, which keeps being diffused in the air through a burner. There are five priests on the main altar, two of them wear a black robe with a black cowl pulled on their heads. These outfit is worn by the unmarried priests, to distinguish them by the married ones (as I would be told later).

One of the two black-dressed priests is Nouri, the first person who agreed to be interviewed for my research. I meet him in his office at the end of Mass. He is in his 50s, and he has a long black beard spotted by some gray hairs. One of his assistants brings us some tea and a piece of cake and people keep entering and going out his office. A young man sit at a table on a corner. I explain to Nouri the purpose of my research, and he is quick to say that "*Armenians has the same rights as other Iranian citizens,*" and he goes on saying:

There is no discrimination. There are also Armenian representatives in the Parliament.

However, he continues with an observation on job opportunities for Armenians which sounds contradictory to his first statement:

The main problem is to find jobs for the younger generations; they do not have access to the highest positions of public employment even if they have good university degrees. Armenians cannot become president, nor ministers, nor members of the councils. No positions in the government can be hold by Armenians because of their religious affiliation.

Armenians have a rooted history in Iran. They feel that they are the real Iranians. There are good social relations with other people living in Iran. There is mutual respect between Muslims and Christians. Sometimes, religious representatives from both sides pay visit to the other religious community: we go to visit them during their feasts, and they come to visit us during ours.

He then reports the numerical size of the Armenian community living in Iran nowadays, according to the statistics at his disposal, and the issue of emigration:

There are three Armenian prelacies in Iran. The biggest is in Tehran with 75.000 Armenians. Then, there is the prelacy in Isfahan with 10.000 Armenians. Finally, there is the prelacy of Tabriz-Urmieh with 3000 to 5000 Armenians. The total number of Armenians in Iran is, therefore, around 90.000. Almost 60.000 people have left the country since the Islamic Revolution in 1979. We can find many reasons for this: Armenians look abroad for jobs and more freedoms. Many people have emigrated to the United States, to Armenia, or to France. The majority of them, however, emigrated to the United States, where there is the biggest Armenian community.

When I ask him which kind of freedoms are Armenians looking for by going abroad, he laughs at me and concisely replies that "*There are religious restrictions,*" however:

Within the Armenian community there is complete freedom, but we cannot preach outside our community: this is the law in Iran. Other Christian communities, like some protestant churches do that, but it is very dangerous; priests have been arrested or killed for this. If you abide by the law, you have freedom within your religious community… you can preach only within your own community. Of course, there is no freedom for Muslims to change religion. Islam forbids this everywhere. Here is also the law of the State, since religion and State are the same.

Concerning other freedoms the Armenian community can enjoy, Nouri states that:

There is freedom to teach within the Armenian community. There are also Armenian schools where we can teach our religion and language. There is some degree of freedom. However, there is no Christian education in other public schools. Also, a Muslim teacher teaches Christian religion at universities or in public schools. They teach Christianity from a Muslim perspective. Armenian history is not taken into consideration in public schools.

Before I leave, he repeats that Armenians are "*free to practice their religion within their own community. We can also practice our culture and language, within the limits of our community: there are no limitations within the community.*"

2.2) Reza

I first meet with Reza in his office, in one of the Armenian neighborhoods of Tehran. He is in his 30s, and he works as a professional engineer, heading his own business; however, his real passion is for international law. For this reason he took another degree in law, and he is trying to pursue a new career as a lawyer. He offers me some tea and cookies, while I explain to him my research and the purpose of the interviews with members of religious and belief minorities in Iran. As a member of the Armenian church, he agrees to be interviewed, and we schedule a meeting for the following week, after the Friday Mass.

On the morning of the following Friday, June 22ⁿᵈ, 2012, we attend Mass together. I notice the same features of the preceding week, when I had gone to interview Nouri (see paragraph 2.1) in another Armenian church: the church is almost empty, and most of the attendants are elderly. At the end of Mass, Reza introduces me to some of his coreligionists, and then he invites me to have breakfast in a bakery nearby, where we start our formal interview.

His knowledge of law is evident at the beginning of our conversation, when he states that:

If you want to find discrimination against religious minorities, you should look at the Iranian Criminal law and the Iranian Civil Law, especially Art. 881 of the Civil Law. If an Armenian converts to Islam, he would be able to inherit everything from his family. Fortunately, that has not happened in our community, because people are very attached to the Armenian tradition and language. Also, it happened that a man converted to Islam in our community, but he refused to inherit from his family.

When he was young, Reza attended his studies in Armenian schools, where he studied his religious tradition and the Armenian language. Currently, he volunteers every week as a teacher at a Sunday school in one of the Armenian parishes of Tehran. He teaches both the Armenian language and the Armenian catechism. He acknowledges an improvement in government policies towards the Armenian community: "*Now we can teach our religion in our schools. After the revolution in 1979 this had been forbidden to us.*" However, there are "*very few Armenian schools left in Tehran.*"

According to Reza, the biggest challenge the Armenian community is facing today is emigration:

Many Armenians are leaving the country. Therefore, we do not have enough Armenian students and Muslim students are not allowed to attend our schools. Our students have to go to public schools, where they do not learn about our religion or about the Armenian language and history. That is the very reason why I teach students on Sundays.

Another consequence of emigration is the difficulty of finding a partner within the Armenian community:

I am not married yet. Our choices are very limited. Moreover, it is forbidden for us to marry a Muslim woman. I loved a Muslim woman when I was young, but we had to break up because I could not marry her and keep my religion. Also my parents would have not been happy had I married her. She got sick after we broke up, because she was really sad. Now she lives abroad.

Reza highlights a reciprocal isolation between the Armenian community and the rest of the Iranian society:

We want to protect our culture and our language. It is not only the law of the State, it is also the members of our community who do not want to mix.

However, he later points out that it is forbidden to Armenians to preach their religion to Muslims, even if they wanted to do so:

You cannot preach in Farsi to Muslims, you can only preach in Armenian within the Armenian religious community. We can, for example, print the Bible, but only in Armenian, we cannot print it in Farsi. There is a limitation to be free only within the minority community. We are free, but it is a limited freedom. There are many Iranians who go to Armenia nowadays and try to bring back Bibles, but they are stopped at the border, and they are not allowed to bring Bibles inside Iran. The government talks about interfaith dialogue between Muslims and Christians, but how can there be a dialogue if we cannot even print the Bible in Farsi?

According to Reza, many Muslims would become Christians if Armenians were allowed to preach in *Farsi*:

I saw some people coming to our church and stay outside to pray and then leave. Few days ago an old man came to our church; he was a Muslim who converted to Christianity. His left hand had all the fingers cut off, which means that he probably was a thief and had been punished for it. He told us that he had 200 hundred Bibles written in Farsi he could give us. We could not accept that gift, since we are not allowed to preach in Farsi and have bibles in Farsi, so we told the old man to go to another church to donate his Bibles.

At the end of our conversation, Reza stresses how he chose to open his private business because there was no chance for him as an Armenian to advance in public positions:

Armenians can find jobs only in low ranking public positions. That is the reason why most Armenians have private businesses.

2.3) Parviz

Parviz is an Armenian priest in his 60s. I meet him at his church in Tehran on Sunday, June 24th, 2012. The neighborhood is highly populated by Armenians and the community is very active in the church. I am invited to attend a religious gathering with few other members of the parish. The atmosphere is very friendly. Sweets and tea are served, and there is also a cake, since it is the birthday of three of the participants. At the beginning of the gathering, Parviz and the other coreligionists sing a couple of religious songs in Armenian, then the priest starts reading a passage from a meditation book written in Armenian, and they comment it together. After the lesson, I have the chance to interview Parviz, who speaks a very good English, since he attended university in the United States.

Parviz was born in a small village in Iran to an Armenian family. One of the first things he tells me is that Armenians in Iran do not leave under persecution, but they are free; "*they have their own communities and churches.*" According to his statistics, which differ slightly from those presented before by Nouri, there are between 70.000 and 80.000 Armenians in the country:

More or less half of them left the country after the 1979 revolution. However, this process of emigration had already started before the revolution, during the Shah era. Armenians emigrate because they want to go to a Christian country, where women are not forced to wear the scarf, for example.

Parviz teaches religion in Armenian schools:

The government pays me to do that, not the Armenian community. I am hired by the government, and in few years I will also have a pension! I am part of the staff of the Ministry of Education. I think this is very positive for my community. They do not pay, however, for those other teachers who teach Armenian language.

Concerning the possibility of preaching to Muslims, Parviz is categorical:

The government does not allow us! They will close the church if I preached to Muslims. They let us free to do our business within our communities.

He then recalls a personal experience he had few months before:

I was preaching with my wife in Khuzestan, a province in the southwest of the country; I was giving religious CDs to people. The police stopped me and wanted to put me in jail. When they understood that I was an Armenian priest, they did not bring me to jail anymore, since they want to keep positive relations with the Armenians. They let me go, but they reported the accident to the Armenian bishop in Tehran, who reproached me for what I was doing.

According to Parviz, even if Muslims are not allowed by law to convert to another religion, they keep converting anyway:

In my opinion, there are millions of Christians in Iran, but they all keep it secret and gather in private houses, which are called house churches. If you convert, the government will threaten you to change your mind. It will maybe threaten you fifty times, but eventually, if you do not repent and you keep being active in your new faith community, they will kill you or they will force you to leave the country … it is very easy to obtain the passport in these cases!

When we finish our conversation, Parviz and his wife offer me a ride to the closest bus stop. Once in the car, Parviz repeats me that Armenians can enjoy freedom in Iran. Tellingly enough, however, his wife turns smiling at me and states: "*this is his personal opinion…*".

2.4) Sami

Sami is an Armenian photographer in his 20s. He is introduced to me by an Iranian friend who used to buy alcohol from him, when Sami was still partially working as a photographer and partially working as an alcohol dealer in the underground market. Few months ago, the Iranian police arrested his main supplier, so he quitted the illegal activity and started working as a photographer full time. "*I've already earned enough money from selling alcohol. I can work as a photographer full time,*" he tells me the second time we meet.

After I explain to Sami the reasons of my research, he agrees to be interviewed and gives me an appointment at his shop on Monday, June 25th, 2012. He is the last Armenian I get to interview.

Sami was born to an Armenian family in Tehran. He attended an Armenian primary school where he studied the Armenian language and the Armenian catechism:

I had no problem to attend the Armenian school or to learn the Armenian language. Armenian parents want their kids to speak Armenian. I always speak Armenian in my community and with my parents; it is a pride for us to speak Armenian.

However, he was not able to attend an Armenian high school:

Since the Armenian population in Iran is getting smaller and smaller and there were not enough students to fill up a class, I had to attend a public high school. Therefore, during high school I had to take Islamic classes, otherwise I could fail school. We, as Armenians, do not have the right not to attend Islamic classes in public schools; we have to attend them as all the other students do. Moreover, Armenian history is not taught in public school. It is all about the Islamic revolution of 1979 and Islam. I think that one of the strongest pressures on Armenians is at school, because we have to learn all about Islam, and little students of 8 or 9 years old may be influenced by these ideas and forget about their own tradition.

Concerning the freedom to practice their religion, Sami recognizes that within the boundaries of their own community, Armenians are free to pray and to gather in their own churches, "*but it is strictly forbidden for Muslim to convert to Christianity or to attend our churches.*" According to Sami, there are people who control if Muslims try to attend Armenian places of worship:

If this happens, they report it to the authority and the authority can close our church. The government also hires Armenian security guards: they are spies within our own community. Priests are afraid to tell what is really going on in Iran. Within the boundaries of our community we are free, but if we pass the limit, the government will punish us.

Sami acknowledges the fact that Armenians are not allowed to do some jobs, for example they cannot be "*pilots in the army, generals in the army, or top level lawyers.*"

We cannot have government jobs, like ministries or other public offices. During the Shah era, the most important public offices where hold by Armenians. Nowadays, most Armenians work in private industries, like the car industry, and in private businesses, like music, cinema, or photography. Armenians have industries and private businesses, and they make good money. There are only few poor people among the Armenian community. Even if we do not like the policies of the government, living here is good as long as we can make good money.

Concerning the limitations Armenians suffer in Iran, Sami tells me that, about a month ago, his wife was arrested two times because she was not dressed according to the law:

When I said we were Armenians, the guards replied that for this very reason we should respect the law even more, otherwise we should live the country. As a matter of fact, many Armenians have already left the country; most of them went to the United States, some other to France. It is very easy for Armenians to go to the United States. My sister, for example, left Iran few years ago, and now she lives in a city close to Los Angeles in California. The Armenian community in California is very numerous: people do not even need to learn English, they can just speak Armenian to each other.

According to Sami, the biggest problem for Armenians in Iran is that the community is getting smaller and smaller every day. Overall, however, according to him "*Armenians are happy in Iran, they have only to respect the rules of the country.*"

We are free, but we have limitations, and I should accept them. I feel I am a guest in my own country! I have learnt that I should control what I do in Iran when I am outside our community. The Islamic culture has also become part of the Armenian community in Iran: we have acquired some habits; for example, even when we are in private houses, we do not shake hands with women.

The United Nations and the international community have proven to be helpful when the Armenians in Iran have been under pressure by the government:

When Ahmadinejad first came to power he wanted to get hold of the Armenian stadium and sport center in Tehran. Armenians protested with the international

community and sent letters to the UN, so he stopped. Our government is afraid that the international community gets to know about abuses which take place in our country.

In the end "*it is good to live here, because in our places we have no limitations, we are free.*"

2.5) Youness

Youness is an Iranian Jew in his 20s. He is a student of theatre in one of the main universities in Tehran. We first meet thanks to a common friend, student of theatre in the same university. He agrees to be interviewed for my research and we schedule an appointment for Friday, June 22nd, 2012, in the afternoon.

I meet with him in a park of the capital. Since it is Friday afternoon, a weekly holiday in Iran, the park is full of families having picnics on the areas of shady grass. Youness seems very calm and silent, his look is inexpressive. The Iranian friend who introduced me to him told me he broke up with his Muslim girlfriend few months ago and he has suffered a very severe depression since then. We sit on the grass, under a tree, in order to find some refreshment from the scorching heat and the humidity of the day. I ask him to tell me about his experience in Iran as a member of a religious minority. Since he seems uncomfortable to talk about his life, I start asking him questions following my research guide.

Youness was born to a Jewish family in Tehran:

My parents are secular Jews and they do not practice religion. I do not practice my religion either, so I have not experienced any restriction in my life.

Youness attended public schools with Muslim students:

Overall, I never experienced any problem with my professors and my classmates, even if they knew I was Jewish. I only remember an episode which took place when I was at the elementary school. One day, it was raining and one of my professors told the other students not to come close to me otherwise they could have become dirty and unclean.

On Fridays I would attend the synagogue with my Jewish friends to learn about my religion. I was free to practice my religion, and I had no restrictions.

Youness did not experience any problem to enter university, however he had "*to attend the same required classes in Islamic history and religion as all the other students.*"

He does not know how big is the Jewish community in Tehran:

I only know that many of my Jewish friends have left Iran in the last five years, and they went to either the United States or Israel. The Iranian Jewish community is becoming smaller and smaller every day. I think it will disappear soon. The Jewish community is under pressure, even if we do not advertize our religion.

Youness only briefly mentions the difficulty to find a partner and his former love affair with a Muslim girl:

Within our community it is forbidden to marry a girl who does not belong to the same religion. We then experience a dual restriction, from the government and from our own religious law. I was in love with a Muslim girl, but we could not get married because of our different religions, so we broke up. It is too difficult for me to talk about this.

Youness ends our conversation with a grim comment, made harsher by the sadness expressed by his eyes:

It is going to be difficult for me, as a Jew, to find a job, since I cannot apply for any public jobs. One of my dear friends recently left Iran to find better job opportunities abroad. Without a job and the possibility to marry the girl I love, I will need to find a way to go abroad as well.

2.6) Rostam

The first time, I meet Rostam in a coffee shop. He is an Iranian Jew in his 20s. A common friend introduces us to each other, and we drink a coffee together. The coffee shop is located in the basement of a building in center Tehran; the lights are very dim and it is difficult to recognize people's faces. Most of the customers are

young students intent on speaking to each other in a low voice and on smoking cigarettes. Rostam lights himself a cigarette and takes a sip of his coffee. I explain to him about my research and the purpose of the field work. He agrees to be interviewed and we schedule another appointment.

We meet a second time in a park in northern Tehran, on July 5th, 2012. The northern part of the capitol is cooler and there is less traffic. We sit on a bench underneath a tree, and Rostam starts talking about his family and his experience at school:

My grandfather was a Jew from Isfahan. I was born in Israel, but I came back to Iran with my parents when I was three years old. In Isfahan we had no problem to attend the synagogue every Saturday. The Jewish community is numerous there: there is a ghetto only for Jewish people. I think Isfahan is the best city for Jewish people in Iran. I attended a Jewish elementary school in Isfahan with other Jewish students. I attended a public institute only the last year of elementary school, and it was really hard for me: I had to go to school on Saturdays and I had to pray with the other students. I was forced to pray, even if they knew I was Jewish... I did not even know how to pray. I moved to Tehran with my family during middle school, and I attended a Jewish school. Then, I moved to Amsterdam in order to attend high school and university. My parents wanted to grant me a better education. In 2003 I moved back to Tehran and I have been living in Tehran ever since.

According to Rostam, it is difficult to be Jewish in Tehran:

There are only two kosher restaurants in all the city; every Saturday there are security agents sent by the government outside the synagogues to check who enters. If they see that a Muslim or other non Jewish people try to enter the synagogue or to speak with you, it could be dangerous, because they would think that you want to advertize your religion, and this is not allowed by the law. Intelligence service controls all the synagogues, who enters and who gets out. Moreover, it is forbidden to wear the kippah in the streets, we also cannot show symbols of our religion, like the David star... we have to hide it. You can only practice your religion in the synagogue or in your private house!

Rostam shows me that he wears a David star underneath his t-shirt. Then, he talks about the demographic issue concerning the Iranian Jewish community:

The future is really dim for the Iranian Jewish community, most of the Iranian Jews are, in fact, leaving the country. Most of my Jewish friends don't live in Iran anymore, they migrated either to Israel, to the United States, or to Europe. My parents also leave in the United States now. The Jewish community in Iran is becoming smaller and smaller. The only freedom we have left is to practice our religion within our own community or in our private houses. You go to the synagogue or in your own family to learn about your religious tradition. In Tehran there is only one Jewish elementary school left, and it is a very old school. In public schools they don't teach anything about the Iranian Jewish community. You cannot find any source to study Judaism in Iran, since there are no translations of the Talmud in Farsi, only English translations. You cannot find translations of the Old Testament in Farsi either, it's illegal.

According to Rostam, it is the government that puts pressure on the Jewish community, not the society:

I do not have any problem with my friends because I am Jewish, I have a lot of Muslim friends! However, I cannot go the synagogue with them, since the security service controls all the members of the Jewish community in Tehran, they know everything about us. They control us, because we are Jewish. For the government, I am Jewish first, then Iranian, but I feel I am Iranian. This is my country.

As for the other recognized religious minorities, "*Jews have no chances to find a job in the government, so they have to find a job in the private sector. Therefore, most Iranian Jews own private businesses.*"

Before we finish our conversation, Rostan tells me about his love relationship with a Muslim girl:

It's really difficult for Jews to find a partner, since the community is very small, and we cannot marry a Muslim person. My ex girlfriend was Muslim, and after few months we had to break up, because her parents did not accept our relationship. I have another Muslim girlfriend now, and we want to go abroad together in order to stay together. Her parents don't accept our relationship, but I don't want to lose my girlfriend another time because she belongs to a different religion.

2.7) Mehrab

I first meet Mehrab during my visit at the Zoroastrian cultural center in Tehran. He listens to my conversation with the secretary of the institute, while I explain to her about my research project. He comes to me and expresses his willingness to take part in an interview. He hands me his business card: he is a Zoroastrian in his 20s, and he works as an engineer, but he is also a Zoroastrian priest. I explain to him the purpose of the field research, and then we schedule an appointment for July 1st, 2012, in a park northern of Tehran. He will join me in the afternoon, after his working day is over.

When we meet for the second time at the park, we look for a quiet spot where we can begin our conversation. Mehrab starts telling me about his family and his school experience. He was born in Tehran to a Zoroastrian family, and he attended a Zoroastrian elementary school:

I learned about my religious tradition at school. My religious teacher was Zoroastrian. Unfortunately, there are only two Zoroastrian elementary schools in Tehran. Sometimes families live too far from them, and they cannot send their children there; therefore, parents have to enroll their children in a normal public school. These kids that cannot attend a Zoroastrian school usually attend Friday classes in community centers for Zoroastrians in order to learn about our religion. In some other cities of Iran there are no schools for Zoroastrians.

Mehrab also attended a Zoroastrian middle school and a Zoroastrian high school, where he did not experience any limitation concerning his religious practices. He then enrolled to university:

In order to enroll, I had to take part to a competitive entrance examination. When I applied for the examination, I had to fill up a form and check my religious affiliation. Since I stated that I was Zoroastrian, I had to study my own religion in order to pass the entrance examination: religion is, in fact, one of the topics of the test, and you have to pass it if you want to have good chances to enter a better university. However, sometimes Zoroastrians have problems with these religious questions, because they are not good questions about our religion; I think there is a political will to make it more difficult for us to pass the religious section of the examination. Passing the religious section is very important to enroll in a bachelor degree, less important if you want to

enroll in a master's degree. Since I obtained a good score in the test, I was admitted in a private university to study industrial engineering. Once I enrolled to university, I had to attend some compulsory Islamic classes, like Islamic ethics, Islamic texts, and Imam Khomeini thinking and testament. As a Zoroastrian, however, I could be exempted from taking the class on Qur'an recitation and translation. I just had to present an official paper from my religious community, and I could avoid attending that class, but only that one. Many Zoroastrians do not know about this possibility, and they take this class anyway.

Concerning the demographic of Zoroastrians in Iran, Mehrab considers they are less than 20.000:

I think that at least 60% of Zoroastrians have already emigrated since 1979, and this is the biggest challenge for us. Most of them emigrated to the United States. Moreover, as Zoroastrian community, we do not allow people to convert in Iran, because it could be too dangerous. At the same time, Muslims are forbidden by the law to convert to another religion. If some people convert to Zoroastrianism, they do not tell that, they keep it secret, also to friends. The future for the Zoroastrian community in Iran is very unclear and dim, in my opinion.

We finish our conversation talking about job opportunities for Zoroastrians:

For Zoroastrians is very difficult to find a job. Many government positions are forbidden to us, like being a pilot or a high ranking general in the army. Every time a new job position is advertized, it is specified if they want to hire only Muslims or also members of recognized religious minorities. Last year, for example, they advertized that you had be Muslim to work in the Iranian Airlines. I found my job as an engineer thanks to other Zoroastrian friends, who told me that what is now my company was hiring people, and that it was open to Zoroastrians.

2.8) Kia

Kia is a retired engineer in his 70s, as well as a Zoroastrian priest. I first meet him at the Zoroastrian Fire Temple in Tehran. He seems a very nice and peaceful man: he has a very warm look and a soft voice, his manners are gentle and calm.

When I explain to him about my field research, he agrees to be interviewed. He invites me to his office for an interview on July 4th, 2012.

When I arrive at his office the day of the appointment, Kia offers me some tea and sweets. Before we start our conversation, he warns me that if he says too much *"it could be a problem for our community, because the government may think that we want to create bad publicity."* I reassure him about the anonymity and confidentiality of the interview, and I inform him that he is completely in charge of the interview; therefore, he is free to recount only those things he considers appropriate to be shared.

He tells me that the situation for Zoroastrians in Iran could be worse:

Within our community we have some freedoms, it is not as bad as you could imagine, as long as we cooperate. Within our "four walls" we are free to practice our religion. However, also within our community and places of worship we have to respect "their" feelings, especially when it comes to Islamic religious beliefs or festivals; for example, during the month of Ramadan, we cannot drink or eat in the street. We try not to celebrate marriages or other ceremonies during the month of Ramadan. We also have restrictions during mourning periods, which are many in Iran. During these periods we must be very careful not to offend Islamic feelings: we can neither play music nor hold festivals within our community. Celebrations which involve eating or playing music are against the mourning of these Islamic events.

According to Kia, the younger generation of Iranians is attracted by the Zoroastrian culture and religion:

Most of the younger people in Iran, who are fed up with the Islamic regime, see how open and free our religion is. Unfortunately, there is not much we can change, because that would be very dangerous for us. No Muslim can be invited during our celebrations. We are not allowed to preach our religion to Muslims: no propaganda can be done and no brochures can be distributed to Muslims. We cannot give our books to Muslims, we cannot discuss with them about our beliefs either: it is forbidden by the law of the state. A Muslim cannot change his or her religion. When that happens, the authorities want also to find out who brought about that change, and if they cannot find the responsible, they can punish and put under pressure all the religious community.

Concerning the possibility to teach Zoroastrianism in school, Kia recalls that there was a Zoroastrian high school in Tehran, "*but less than 50% of the students are now Zoroastrians:*"

Most of the students are Muslims or Armenians, so we cannot teach our religion anymore. The school is not Zoroastrian, but it became a public school; therefore, the State helps us to pay some expenses. This high school is more than 100 years old. There are religious classes, but the books that are used are general books, and they mainly talk about Islam. We held Friday religious classes for our Zoroastrian students to teach them our religious tradition and belief. In public school, they only teach Islamic tradition, nothing about Zoroastrianism, neither religion nor culture or history. If someone does that, he or she will be punished. Even discussion among students is forbidden.

He bitterly states that "*cultural values have been turned upside down: there is no more freedom of choice or freedom of religion, as our religion preaches*."

Only during the Pahlavi era, according to Kia, religion was divided by the State:

Now the State lays out the rules to practice religion and you know what to follow if you do not want to be punished.

Regarding the demographic of Zoroastrians in Iran, Kia's statistics agree with those presented by Mehrab before:

There are around 20.000 Zoroastrians in Iran nowadays: so many people have emigrated. The female population is higher, since most of the people who emigrated were men. I have two sons. One is still in Iran and works here, the other one emigrated to the United States. This is a very common situation among Zoroastrians. The future is very dim for our community in Iran. We are few and scattered, but we try to be optimistic: even if one thousand of us remained, that would be something to be hopeful for!

After the revolution, the first census in 1980 showed that the Zoroastrians were 92.000 in the all country. I believe, however, that those figures were not very accurate, since many people did not want to state their religion for fear of being persecuted and preferred to keep it secret. People have migrated for different reasons. One reason was the long war against Iraq, but also because they felt under pressure. The survival of

our community depends exclusively on our own population, since we cannot preach to others, or accept conversions.

Our religion does not restrict marriage with someone outside the religious community, but we advice not to marry with Muslims, because if you marry with a Muslim, the law of the country demands you to convert, since a Muslim cannot marry with a non Muslim. The inheritance law is also a big problem in these cases, more in the past than today.

Kia is also concerned about the job market for Zoroastrians in Iran, since the opportunities for them to find jobs are very limited:

According to the law, a Muslim cannot be subordinated to a non Muslims; therefore, managerial positions are usually hold by Muslims, especially in the public sector: army posts and governmental posts are forbidden to Zoroastrians, because that would mean that a Zoroastrian would give orders to a Muslim. Private enterprises are not as much restricted and most of the Zoroastrians work in private businesses.

The last thing that Kia tells me concerns the opportunity for Zoroastrians to build places of worship:

We are not allowed to build new places of worship in Iran. We can only restore the places that already exist. Nowhere in the country we are allowed to build new places for Zoroastrians.

He finally smiles to me and states:

This is all I can say. I would be making propaganda against the State if I told you more, and that is not allowed and would be dangerous for us. You are going to publish this work, and this is dangerous.

2.9) Babak

Babak is a Zoroastrian in his 40s. He works as a pharmacist in the center of Tehran. Kia gave me his contact after our meeting. I go to meet Babak at his pharmacy, and I explain to him who I am and the purpose of my field research in Iran. He agrees to be interviewed, and he gives me an appointment for the next day.

On July 10th, 2012, we meet at the Zoroastrian Temple during his afternoon break from work. The Temple is located in a quiet street, and it allows us more privacy. We sit on a bench inside the Temple and we start our conversation.

Babak was born in Tehran to a Zoroastrian family. He was 10 years old at the time of the revolution of 1979:

Before the revolution, Zoroastrians had more freedom and respect from the State; we were allowed to work in the government and members of the government were taking part at every Zoroastrian ceremony. The Shah was promoting ancient Iranian history and civilization; therefore, Zoroastrians were well considered and respected. After the Islamic revolution we started being very limited.

After the revolution, if a member of a religious minority had a restaurant, he or she had to put a sign outside the restaurant informing that it was not a Muslim restaurant. When the war with Iraq ended in 1988, this policy ended as well. I think the government understood the necessity of having relationships with other countries, and that it could not afford to practice these discriminatory treatments anymore.

Babak attended public schools, but only after the revolution religion became a compulsory subject everyone had to take in order to pass the final exam:

Before the revolution we did not have to study Islam at school, but after the revolution the new government stated that all members of all religions had to take religious exams according to their religious affiliation. Since I could not study Zoroastrianism at school, because I was attending a public institute, I had to attend our religious classes during holidays and week ends. This was really limiting for me, because I had less time to study other subjects.

I had no problem to enter university because I was Zoroastrian. However, I had to take courses in Islamic ethics and other compulsory Islamic courses. I complained with a professor, and I was exempted to take the course in Qur'an reading, but I had to take the other courses.

According to Babak, in the Islamic Republic Zoroastrians have religious freedoms, but they must have permissions to do everything concerning their religion and their tradition:

We must have permissions for every ceremony, and during Islamic religious festivities we are very limited. Moreover, we can have mixed parties with men and women but there cannot be Muslim attending, otherwise we may incur in big troubles.

From the way the situation is presented to the outside world, it seems we have all freedoms, but it is not real. There are many restrictions; for example, women must wear the scarf. The law in Iran is Islam and what the Leader says; you are supposed to do whatever the Leader says.

I work in a pharmacy, and in my everyday work I see many people coming to buy alcohol from the pharmacy. I know they buy it to mix it and make spirits. The government cannot change the mind of people. If people want to drink, they will find a way to do that. When the police stops my wife and tells her to adjust her scarf, she does that, but in her heart and in her mind she still believes it is not a good practice for herself.

Babak is mostly concerned about the high rates of emigration within the Zoroastrian community:

There has been a big emigration of Zoroastrians from Iran since 1979. So many of my close friends emigrated. I don't want my little daughter to grow up here: the political and social atmosphere is very sad and nervous. In Iran you cannot choose what you want to be. Another reason that makes our life more difficult is the hereditary law: if one of your children marries a Muslim, he or she has to convert and then he or she is allowed by law to inherit everything from his or her family. Since our community is getting smaller and smaller, and our people are facing difficulties in finding a partner within our Zoroastrian community, this issue is becoming more sensible every day.

Another issue of concern to Babak is the discrimination in the job market against religious minorities:

Every man in Iran has to do military service, and that is what I did too, but if you want to work in the army and have a career in the army, you must be a Muslim. They don't hire you if you are not a Muslim. You cannot work for the government if you are a member of a religious minority. One of my closest Zoroastrian friends, for example, wanted to work in a bank, but when he filled up the application form for the position,

and he stated his religion, they said he could not be hired. This is not written anywhere, in any law, but it is the reality we face every day.

Babak's last consideration is about the way Zoroastrians are perceived by the Iranian society and how it has changed in the recent years:

At the beginning of the revolution, public opinion was adverse to Zoroastrians. Now, most people are friendly with us. After so many years of political pressure and enforcement of Islamic laws, a lot of Muslims have found out that the government is not always right only because it presents an Islamic façade. Thanks to the Internet and the satellite, many people can see a different world outside the Islamic Republic. A lot of Muslims, for example, come to my pharmacy only because we are Zoroastrians: they like us, and they are also curious to know something about our religion, our history, and our tradition.

2.10) Cyrus

It is Monday afternoon, June 18th, 2012. Cyrus is waiting for me in his car, parked on the side of the street in Enghelab Square, one of the main arterial roads in downtown Tehran. Cars and buses keep running around the square creating a whirlpool of noise, dust, and polluting gasses. I spot Cyrus from a distance: he told me on the phone the model and the color of his car and that he would be wearing a red t-shirt. An Iranian friend of mine talked about my field research with Cyrus, who expressed his willingness to be interviewed.

Cyrus is a Baha'i in his 20s, and works as an employee in his father's business. He greets me with a warm smile and invites me to get inside his car, where the air conditioning could give us some refreshment from the scorching heat and humidity of this summer day. We decide to go eat something together, and he drives us to a coffee shop nearby where we have lunch. During lunch, I explain to him my research and the purpose of the interviews.

Before starting the formal interview, he asks me to turn off my cell phone and take out the battery. According to Cyrus, the security services could listen to our conversation through the cell phones. I do as he says, and he does the same with his cell phone.

Cyrus is from a small city, south-west of Tehran. One of the first things he recalls from his childhood is when the secret police arrested his aunt and his uncle:

When I was 9 or 10, the sister of my father and her husband were arrested, and for two months we did not know where they were kept. The police arrested her husband first and put him underground with only his head out. They threatened my aunt to stone him if she did not convert to Islam. She eventually converted to Islam because of these pressures from the secret police: she had to become Muslim or her husband would die. She was a good Baha'i. After the conversion, she wrote a book about the Baha'i faith, a book full of lies about our religion and about our family. She also became active against Baha'ism: she was giving speeches all over Iran about her conversion to Islam. I'm sure she was pressured by the government. It was really hard for me at that time to accept this situation. One day my aunt ran away from the secret police control in Tehran and came to my grandmother's house saying that there was a huge pressure on her and she did not want to be Muslim. She wrote a letter to the Baha'i community stating that she was Baha'i. She also wrote the same letter to the secret information police. After this episode, the secret police attacked her house, and they arrested her, my dad, and my other aunt with her husband. They brought them to prison, and my dad stayed in prison for 42 days. At that time, my mom and I did not know where he was kept or how he was doing. They told them that they tried to convert my aunt: this was the official accusation for bringing them to jail. They were threatened to be hanged for this fact. Eventually my aunt recanted her Baha'i faith. From the time my dad was released from jail, they have controlled my aunt's life completely, and we cannot see her anymore.

When Cyrus was 15 years old, he moved to Tehran to attend high school and to take some music classes:

Music is my real passion, I also have an underground rock band. In high school I studied mathematics just for the necessity of obtaining a diploma, but it was terrible, because I did not want to study that subject. Therefore, when I finished high school, I wanted to study arts at university in Tehran. Unfortunately, I could not enroll since I was Baha'i.

He then explains to me the process of applying to a university:

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Until 5 years ago, when I wanted to apply to an Arts' university, in order to enter any university you had to fill out a form in which you had to state your religion, but Baha'ism was not included in the form. If I had chosen another religion, like Christianity, Judaism, or Zoroastrianism, they would have known I was not saying the truth, and they would have not let me participate in the entrance examination. In my documents, in fact, it says that I am a Baha'i. If I had chosen Islam, they would have immediately taken advantage of that statement and said that I converted. However, 5 years ago the system of admission was changed, so now there is not that form anymore, but still, if you are a Baha'i, they know that, and they find a way to expel you from the university after one or two years. The Baha'i Institute for Higher Education (BIHE) is the only university for Baha'is in Tehran.[109] Five years ago the BIHE building was attacked and destroyed by government police forces, so now the classes are taught only in private houses, but there is a lot of fear among both professors and students. Most of my Baha'i friends are studying at BIHE.

After he finished high school, and since he could not attend an arts' university, Cyrus went back to his hometown:

I started working with my dad in his private business: Baha'is cannot work in the public sector, they can only work in the private sector. By the time I went back to my hometown, my parents were working on a project on coexistence among different religions in Iran, and they were taking part in meetings with other members of different religions, including Muslims. There is an institute in the United States called RUHI Institute[110]; this Institute published seven books with different levels of meditation on Baha'ism. What my parents and I were doing was to make some discussions on the things written in these books. We were holding gatherings with other people, also members of other religions, and we were having discussions with them. For this reason, the secret police came to our house to check for documents and papers. They took all our personal belongings: our books, our computers, my music instruments, everything. My dad had to go to the Secret Information Agency (Ettela'at) every day for a week, 8 hours per day. They asked him all kinds of questions and after a week he was arrested. However, they brought him to the court without charges. This happened three years ago. The judge told my father that he had to go to prison for one year because of "activities against the government." At the time he was arrested he had

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[109] To learn more about BIHE, see http://bihe.org, accessed on September 12th, 2012.

[110] To learn more about RUHI Institute see http://www.ruhi.org/, accessed September 12th, 2012.

no lawyer, since he could not find anyone willing to defend him. My mom and I eventually found a lawyer for him, and the lawyer helped my dad to stay in prison for 6 months instead of one year. The government and the secret police want to scare us: that is why they arrested my father and not all the other people who were taking part in the same projects; they want to put pressure on the Baha'i community.

One year ago, another person was appointed as the head of the secret police in my hometown. The new director called my family saying that he wanted to have a "friendly conversation" with us. We all went to his office and they asked us funny questions about our personal life. We were kept there for six hours. At the end of the interview, he warned us not to undertake any kind of inter-faith activities anymore.

Few weeks later, while my parents were in Turkey for a trip, the secret police called me and summoned me again, because they said my answers were incomplete. I went there and that was a mistake, because the procedure was not regular: they cannot call you without any warrant from the judge. I went and stayed there for another six hours. It was very scary: they threatened to expel me from the city and from the country. They threatened to kill me.

After a week the police came to our house and told my mom that I had to go into military service. They wanted me to leave my hometown, and this was their way to achieve that goal. In Iran you can choose when you want to do the military service, which lasts 2 years. Until you have not completed the military service you cannot have a passport. They came again one week later and told my mom that I had to go to prison because I was doing irregular activities in music, with my underground band. Eventually they did not arrest me, they just wanted to scare me and my family. When the police wants to put pressure on my dad and my mom, they say things about me, like that they will arrest me or that they will send me to military service. They just want Baha'is to leave the country.

According to Cyrus, it is easy for Baha'is to leave Iran, but once they leave the country, they cannot come back anymore:

Even if I do not have a passport -and as long as you have not completed the military service you cannot have a passport- since I am Baha'i, it would not be a problem for me to obtain a passport anyway. They want us to leave the country! I have so many friends and relatives abroad. However, if you leave the country you cannot

come back. I could have left Iran many times, that would have not been a problem, it is easy. But I love my country and I want to stay here.

Concerning the demographic of Baha'is in Iran, Cyrus states that there are no official numbers:

There could be maybe more than 1 million Baha'is in Iran. People are still converting to our faith. However, we cannot have official places of worship, where we can pray. We gather in private houses every 19 days: number 9 and number 19 are very sacred for Baha'is. Every 19 days we have a feast: we pray and we discuss religion together. There cannot be more than 20 people in the house because it is forbidden by the law. If there are more than 20 people, police would arrest all of them.

An issue of concern for Cyrus is related to marriage:

When we get married, we hold first a Baha'i ceremony, then we have to go to register our marriage at the town hall. It is very easy to register, but they do not recognize our religious union. We have to get married twice.

According to Cyrus, Baha'is do not want to change the government anymore:

We have to accept this government because it is a principle of our faith: we have to accept the law of the state. None of our activities is against the government, but the government does not accept this. Its problem is with the mind of people: it does not want the people to think about anything.

He concludes our conversation with a grim consideration:

Every night when I go to sleep I thank God because I am safe: another safe day! The atmosphere is so fearful!

2.11) Farshad

Farshad is a Baha'i in his 30s. He lives in a satellite city outside Tehran. He is a very active member in the Baha'i community and recently got arrested for two months. I was told by a Baha'i friend that he would be willing to talk with me about his personal experience. When I go to meet him at his house, on June 19th, 2012, Farshad has been released from prison less than a week before. His house has a very

large living room with couches and chairs around it. Some members of his family, like his wife, his little daughter, and his parents, are present at the meeting. Many other friends will come during the afternoon to greet Farshad after his release. The atmosphere in the house is very cheerful, and I am offered tea and sweets. Farshad has a strained voice and he points out that it is due to the long hours of conversation he has entertained with friends since his release.

After I explain to Farshad the purpose of my field research, he starts talking about his family and childhood experience as a Baha'i:

My grandfather was a mullah, and he was the first who converted to Baha'ism in my family. He was also able to convert the political leader of his village to Baha'ism.

When I was a little kid, I never felt limitations because my family was Baha'i. I could play freely with other kids of my age, even if they were not Baha'i. I felt very happy to be a Baha'i. The happiness and unity in the Baha'i community and the energy within it were very strong.

The first hardship I experienced as a Baha'i took place when I was eleven years old. At that time, I was attending elementary school, and my parents wished I could be transferred in a better institute. The principle of the new school, however, wanted me to state that I was Muslim in order to be registered to the school. I did not state that I was Muslim because it was not the truth, so I was not accepted. Eventually, I had to go to another institute, which was not as good as the one my parents had chosen for me in the first place.

Farshad faced an even more difficult hurdle when he could not apply to university, since his religion was not listed in the application form:

I already knew I had to sacrifice something for being a Baha'i. Being a Baha'i is a testimony not only in your words but also in your deeds; it means to practice Baha'ullah principles and spread the principles of our religion. Truthfulness is one of the most important principles for us, so I could not lie in the application form to be accepted to university. I preferred not to lie and not to go to university. This limitation, however, did not make me sad. We, as a religious minority, strive to be happy, and limitations are only the payment we have to submit in order to reach our goal, which is a revolution in people's thoughts and deeds in Iran.

Since he could not attend university, Farshad studied at the Baha'i Institute for Higher Education in Tehran:

I studied psychology and sociology, but there were not enough teachers to cover all the classes I wanted to take. However, I liked studying there, and I think the level of education offered at the BIHE was good. I studied there even if there is not a real building: we go one day in a Baha'i's house and one day in another house. The government does not recognize a degree obtained from the BIHE: we study for the sake of knowledge. Last year, the secret police arrested five managers of the BIHE, and they were all sentenced to five years in prison. That was not the first time they attacked our university. The government wants us to leave Iran, they want the Baha'i community to be weak.

Farshad completed his five-year program at the BIHE, but he could not find any qualified job:

This was the very first time I felt a strong limitation on us: I studied five years at university, but the only job I could eventually find was as a shop assistant. It is impossible for Baha'is to find a job in the public sector, so we search in the private sector, even if we experience some limitations in this sector as well.

After he got married, Farshad started to be more involved in the Baha'i community:

I started to hold gatherings with people of all religions, suggesting them that we could make Iran a better place. As Baha'i, we do not have political activities, since one of the principles of our religion states that we should respect the laws of the country where we live. However, we have four main social and religious activities: education for children; youth activities; study circles, which are not classes, but gatherings where we talk about spiritual and deep concepts; devotional meetings, where we read a prayer and we talk and discuss about it , and we try to learn how to live up to what the prayer says. Our goal is not to change one person's religion, but to create a new person, without paying attention to the name of the religion he or she belongs to. To change our country, we should first change our behaviors, our minds and hearts. We propose a bottom up approach to change. In Iran, all people are separated from each other, we do not have any community, so our goal is to talk with people and create communities of people. We meet in private houses, since there are not official places of worship

where we can go. Since I was holding these meetings and teaching these classes I was arrested. Before I got arrested, I was holding two or three meetings every day with many different people from different faith communities.

Farshad describes to me how the secret police arrested him and the two months he spent in prison:

I was travelling twice a month to a city which is twelve hours far from my hometown, to undertake these different activities. Four months ago, on a Friday morning, the secret police attacked near 30 Baha'i households in this city, and they arrested 20 people. I knew they were also coming for me. In fact, two months ago, while I was out of my house, the secret police came and rang to my door. Someone said to my wife it was the mailman, and when she opened the door, three men pushed her away from the door and showed her a paper from the court which declared that I had to go to prison for my activities as a Baha'i. I stayed 37 days in solitary confinement at the secret police centre. Every day, they would interview me and ask me questions about my activities as a Baha'i. They accused me of preaching and attracting Muslims and Jews to Baha'ism. It was really scary to be there, because they could do whatever they deemed necessary -mental and physical pressure- in order to obtain from you what they want. After these 37 days, I was sent to jail for 30 days. In prison, they sent me to stay in the same cell with other 90 people, among whom there were murderers and criminals. In all the prison, out of 1200 prisoners, there were only 10 bathrooms. The living conditions were really miserable for the inmates! Prisoners were also using drugs in the cell and many of them held knifes and other sharp objects. Since I was not a murderer, neither a criminal, but I was in prison only due to my religious activities, I asked the director of the jail to be transferred in another cell, with less dangerous inmates, but he refused to accept my request. I think they wanted to put pressure on my wife and family.

Eventually, I was released on bail, but I still have to wait for the final judgment from the court. I was in prison for more than two months, but this time it was only in order to collect information about me and my activities as a Baha'i. I could still go back to prison.

While Farshad was in prison, his family and friends tried to make his plight public through the Internet:

The government is afraid of the news, afraid that other people may know what they do. The international community is effective in pressuring the government to avoid even worst action against us.

Concerning the demographic of Baha'is in Iran, Farshad stresses that there are only 30 thousands registered Baha'i family in all the country -those families that were already Baha'i before the Islamic revolution of 1979. However, "*many people do not register as Baha'i because they are either scared or there is no way to register. I think in Iran there are more than 2 or 3 million Baha'is.*"

According to Farshad, in the recent years, a revolution has started in the behavior of Iranians:

Thirty or forty years ago, people were against us and would attack us for our faith. Now, it is the Iranian Government, not the people, who is against us; the people support us, they respect us and see us as good and friendly people. It is the government that limits us and wants us to leave the country.

2.12) Ali

Ali is a Baha'i merchant in his 60s. I meet him at his house on June 20th, 2012. His wife Farah brings me some tea and sweets. She cannot speak English, but she has a very expressive and warm look. I greet and thank her with a few words in *Farsi*. Before we start our conversation, Ali asks me, as did Cyrus before him, to turn off my cell phone and take out the battery to avoid being listened by the security services. This is an habit I will adopt till the end of the field research, since the participants seem more comfortable if I adopt it.

Ali starts talking about his childhood before the Revolution of 1979:

My father was born in a city in the suburbs of Hamadan. Before the Islamic Republic, ordinary people in my village would attack us and our houses because we were Baha'i. Also the mullah would order people to destroy our properties and to force us to go to the mosque to convert. When I was 8 years old, one of the villagers, spurred by the mullah's proselytism, tried to kill me by letting me fall from a tall wall. I was lucky that there was water underneath, otherwise I would have died that very day.

In those days before the revolution of 1979, the mullahs were provoking and inciting people against Baha'is: we could change people's minds and mullahs were afraid of this! Baha'i children were not allowed to attend the school in my village, so we had to go to another village nearby in order to go to school. This was the will of the mullahs and not of the government, which at that time was too weak to control its peripheries. Every Baha'i left the my village due to all these hardships. We moved to another city where the majority of people were Sunni, and since they were in competition with the Shi'a mullahs, they allowed us to stay with them.

After the Revolution of 1979, the new government adopted a repressive stance towards Baha'is:

The new government was trying to arrest Baha'i and kill them. They were trying to destroy everything which belonged to us. This did not happen, however, in my city, even if I remember that a Baha'i doctor was arrested and convicted for 15 years.

Before the Islamic revolution, there were 9 official Baha'i representatives in Iran. After the revolution, we were prevented from having any official community organization. Baha'is, however, would choose three persons in each city of the country as their representatives and community organizers. However, they were not recognized by the government. These representatives were responsible for Baha'i celebrations like feasts, wedding, or funerals. I chose to become one of these three representatives for my city. The secret police would constantly summon the three Baha'i representatives to their office. This was very annoying for us. They would come to me as one of these three representatives to ask information about Baha'is; however, I would not give them information about the private life of people of the community. One of the biggest problems we had in my city was related to our cemetery, because it was too close to the city center, so the administration did not want us to bury people there. We were then assigned another place to bury our people 5 km out of the city. We built a cemetery there, we planted some trees, and we built a well for water.

Ali stops for a moment and sips some water. His wife Farah has brought us some fresh fruits, like cherries and apricots. Ali's face is crossed by wrinkles; each of these lines probably reflects a piece of his life story. The look in his eyes reveals a deep sadness, resembling resignation. He takes a long breath and starts talking again:

About 5 years ago, the national court of Iran stated that Baha'is were not even allowed to have these three representatives anymore. The secret police threatened to arrest us if we kept having representatives. We then wrote a letter to the national court saying that we accepted their ruling, since we have to accept the laws of the country where we live, and we do not want to do anything against the law. At the same time, however, the secret police wanted us to sign a document which would forbid us to teach religion to our children, to pray with our families, and to tell we are Baha'i to other people. They said we had two choices: either sign the document or go to court and then be arrested. After that meeting, for two years we were completely under control of the secret police: they were controlling our house, our phones, our computers. At the same time, they arrested 18 friends of mine, not Baha'i, who were coming to our house to attend gatherings with us; they all sign a document saying they would not come again to our house, or see us again. After this episode, they also came to my house and searched for everything which belonged to me, and I was not allowed to leave my city for two weeks. For 10 days, I had to go to the secret police office for 8 hours every day: it was very scary. After this, I was sentenced to prison for 6 months. The official accusation was "advertising against the government and doing activities to change the government."

After I was released from prison, the public authority in my city said that our cemetery does not belong to Baha'is anymore, even if we have many documents to prove that it belongs to us. It said we cannot bury anyone anymore, otherwise it will destroy the cemetery. We hired a lawyer to defend us and to prove in the court we have all the rights to use that cemetery, but the case is still pending, and we are still waiting for a final response from the court; our cemetery could still be destroyed.

According to Ali, the pressure on Baha'is from the government is progressively getting worst and worst:

Baha'is are always in fear for their families and for their jobs. After the revolution they would chase and kill us; now they do not kill us anymore, but they try to find any possible way to pressure us, to scare us, to push us out of the country. We cannot experience the feelings of freedom and safety. However, even under this strong governmental pressure, our community is still alive, and this is a positive sign for us!

2.13) Bardia

Bardia is a Baha'i student in his 20s. We meet on June 21st, 2012, in a park in downtown Tehran. It is a Thursday night, after the sunset, and many families are still enjoying the cooler temperatures by doing picnics on the grass. There are many kids playing, someone is praying, other people are singing. Bardia and I find a quite spot in the park and we sit on a bench. Before starting the interview we turn off our cell phones, and we take out the batteries.

Bardia starts talking about his family, and he immediately recalls a tragic story which happened before he was born in his mom's family:

Few years after the revolution of 1979, my aunt, my grandmother, and my grandfather were killed by the government for being active members in the Baha'i community. This happened in Shiraz, in 1984.

My grandfather was one of the representatives of the Baha'i community in Shiraz. They had many activities for children and young people. My mom, my uncle, my grandfather, and my grandmother were arrested for the first time in 1983. At that time, the challenge for Baha'is was to either become Muslims or to face death for their faith. They killed my aunt and both my grandparents because they refused to convert! The second time they were arrested, police forces had a list of people who were active in the Baha'i community, that is the reason why they did not arrest my mom, because she was not an active member at that time. In two days, they killed 6 men and 9 women belonging to the Baha'i faith. They were all hanged. When they arrested my relatives, security forces did not tell the family that they would have been killed. My mom went to meet them in prison and told them that she was getting married with my dad. They did not know they were about to be killed in few days. When my mom went back three days later to show them the engagement ring, my relatives had already been hanged. All their corpses were loaded on an ambulance and brought directly to a cemetery. At the cemetery, three young students of medicine practiced an autopsy on their bodies, without asking for permission to the family. They buried all the corpses in one common grave.

In Shiraz, Baha'i students, among which my dad and my uncle, were expelled from universities. Many Baha'is lost their jobs. After these episodes, my mom and my dad moved to Isfahan, were I was born.

Bardia pulls out of his wallet a picture of his grandparents and shows it to me. "*This is the only picture I have of them. I have never had the chance to meet them in person.*" He looks at the picture -two smiling persons are looking happily at the camera- then he puts it back in his wallet and starts recollecting memories from his school experience:

I remember that at the elementary school, my teacher told me that I was not allowed to take part in a science project, because I could not touch the ice needed for the experiment. The reason was that, since I was a Baha'i, I would have made the ice dirty. This episode really impressed me as a kid.

In high school, I was chosen as the representative of my class by the other students: I had good relations with them, and even if they were not Baha'i, they respected my religion. However, a professor hit me and told me I could not be the representative since there were Muslims in the school, and I was not allow to represent them.

After high school, I studied Industrial Design at the University of Isfahan. In the form I had to fill up to take part in the admission examination, I stated that I was Baha'i, even if my religion was not included in the listed religions. At first, I was accepted at the University, and I could study there for two years. After two years, however, they said I did not attend the final exams to complete the year, and for this reason I was expelled from the University. This was not true, of course, because I did attend the final exams. They told to my Muslim friends not to tell anyone I attended the exams, otherwise they would have been expelled too. The same thing happened to my older brother. I think they accepted me, at first, because of international pressures on Iran, but then they found a way to expel me anyway. The government does not want the international community to understand our real situation.

Every year the universities in Tehran accept from 10 to 50 Baha'i students. The problem is that no one among Baha'is is allowed to finish the university: after one or two year, they find an excuse to expel them, like they did with me and my brother.

According to Bardia, Baha'is cannot find jobs in the public sector because of their religion, but they also face difficulties in their private businesses:

For example, it is difficult for Baha'is, if they own a shop, to renew the license every year. The government finds excuses not to renew these licenses.

Eventually, the government adopts all these tactics because wants Baha'is to leave the country. It is very easy for us to obtain passports compared to other Iranians. Outside Tehran the pressure on Baha'is is even stronger: they want to destroy Baha'i communities in the country. If we are weak in the country, we cannot pressure the government from Tehran.

Bardia concludes our conversation with one last, grim consideration:

Now they do not kill us anymore, like they did twenty years ago, but they keep pressuring us in any possible way.

2.14) Marjan

Marjan is the only female participant to my field research. She is a Baha'i student in her 20s. We met for the first time during my visit to Iran in 2011, and we have kept in touch ever since. When I came back for my filed research in 2012, I contacted Marjan and explained to her the purpose of my interviews with members of religious and faith minorities. She agreed to talk with me about her personal experience as a Baha'i.

Marjan does not live in Tehran, but we schedule an appointment for July 1st, 2012, when she is already in the capital to visit some of her friends and relatives. We meet in a park in northern Tehran, and we decide firstly to take an ice-cream, given the humidity and high temperatures of this summer afternoon. Marjan has recently been to India, and she is wearing a very bright and colorful scarf she bought from there. She has also recently got engaged with her boyfriend, another member of the Baha'i community, and they will get married soon. She seems very happy about this decision and her smile is contagious.

After we finish the ice-cream, we look for a quite spot in the park and sit on the grass, underneath a tree that sheds its shade on us. Marjan starts talking about her family and her experience as a student:

My family is Baha'i. My mom never got the chance to go to university. My dad was studying to become a veterinarian at the University of Tehran; he had already completed all his courses, but he has never received the degree and, therefore, he has never practiced as a veterinarian. This happened two years after the revolution of 1979, during the cultural revolution, when many Baha'i students were expelled from universities.

I attended a public elementary school. Even if I took an exam for talented students, and I ranked first in all my region, I was not allowed to attend the special school for talented students, because I was Baha'i. Eventually, I attended a normal public school. In Iran, there are many different schools, according to the abilities of the students: if you are particularly talented, you can attended a very good school, but I did not have that chance.

After secondary school, my family moved from my hometown to another city, where I attended high school. I did not experience any problems at school with Muslim students or their families due to my Baha'i faith. Before the revolution, it was the opposite: the Shah and the government accepted, most of the times, Baha'is, and it was the society which rejected us with the support of the mullahs. Today the government is against us, not the society. People have understood that we are honest and good people.

Marjan learned about Baha'ism in her family and among her friends:

At school we have to study Islam as all the other students. In Iran there are not even official Baha'i places of worship; therefore, people gather in private houses or pray by themselves.

In one occasion, when she was 19, Marjan was interrogated by the secret police:

I had spent 40 days in India to work as a volunteer at Lotus Temple, which is a Baha'i temple. When I returned to Iran, the secret police interrogated me for 5 hours. They asked me all kinds of questions about my experience in India: why I went there, who I visited, what I was doing. They called me again for a second interrogation, but my mom got really angry at them, so they did not summon me again. I still don't know how they found out about my trip to India.

According to Marjan, being a Baha'i prevented her to go to university:

I could not fill the form to attend the competitive examination with my religion. Therefore, I chose Islam as my religion because that year -it was 2004- the Iranian representative at the United Nations stated that choosing a religion in the form did not mean that you belonged to that religion, but only that you would answer questions about that religion during the examination. However, after I took the test, they told me that my documentation was not complete, and I could not have access to the results of my test. This was not possible, because if my documents had not been complete, I could have not even taken the exam in the first place. Without the results from the test, I was not allowed to enter any university. This same thing happened in 2004 to other Baha'i friends of mine. My younger sister tried to enter university the next year. In 2005, 150 Baha'i students were accepted into Iranian universities, but the majority of them were expelled during either the first or the second semester. My sister, for example, was expelled after the first semester: the university did not give her any written document to justify this expulsion. She was just told verbally that she could not attend the university anymore due to her religious affiliation.

Since I could not enter any university in Iran, I tried to go to Turkey as a refugee student to study in a university there. In the meanwhile, however, I was accepted at the BIHE in Tehran, so I started studying law there. I completed my undergraduate degree in 4 years. The first two years, BIHE was hosted in a building rented by the Baha'i community and all the classes were taking place there. After two years, however, the government found out about the building, and it sequestered the structure. The government also stated that all BIHE activities were against the law. After the seizure of the building, classes were taught in private houses of Baha'i professors. Attending classes became much harder for me, because I had to move to many different places to attend them; classes, in fact, were taking place in many different areas of Tehran. I completed my studies, but as a Baha'i I did not have any chance to become a lawyer in Iran. I tried then to work as an assistant for a lawyer, but when he found out I was Baha'i, he did not want me to work with him anymore.

Concerning other job opportunities, Marjan states that it is not possible for her, as a Baha'i, to have access to any job in the government or government-related companies or agencies, like the oil company, the health agency or the education agency:

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These jobs, which are paid by the government, are forbidden to us. We usually have less obstacles in private businesses, but they could always put pressure on you. As long as you are not too reach and your job is not too important, you are safe.

Marjan stresses how the government does not like Baha'is to be spread in small cities all around the country:

The government prefers Baha'is to be concentrated in big cities like Tehran or Isfahan, so they can be easily controlled. The alternative is for Baha'is to leave the country. The government has been successful in pushing Baha'is out off small cities, since now less than 1/4 or 1/3 of Baha'is live in small cities.

At the end of our conversation, Marjan talks about the issue of conversions:

A Baha'i can convert to another religion. One of our principles states that at the age of 15, when you are considered an adult, you are free to choose your own religion: this decision should be informed by your studies and deep considerations, not accepted blindly. This principle is called "Investigation of the Truth." At the same time we accept and welcome converts from other religions, but it is the government that restricts this possibility.

2.15) Hafez

Hafez is a student in his 20s who recanted his faith in Islam to convert to Christianity. The first time I meet him is during a house party in northern Tehran; a common friend who knows about my field research introduces me to him. I meet Hafez twice again, and I explain to him the purpose of the interviews with members of religious and belief minorities. He seems concerned about the security aspects of talking to me about his experience; therefore, I reassure him about the confidentiality and anonymity of the interview. He gives me an appointment at his house for June 16th, 2012.

Hafez shares the house with another student. The space is small, but clean and cozy. He prepares some tea for me and offers me some biscuits. Before starting the interview, he asks me to turn off my cell phone and to take out the battery. He then starts talking about his childhood and about when he began questioning his faith:

I grew up in a Muslim family, which has never practiced religion too much. I had to study Islam at school, like all the other students. However, when I was 17, I started questioning Islam and its precepts. I did not find the Islamic doctrine suitable for my life. I found many paradoxes in Islam and I did not want to be Muslim anymore. I got interested in other religions and philosophies. After a few years, I completely abandoned religion and between the age of 21 and 24 I became an atheist: I did not believe in God anymore. Then, thanks to the Internet, I found out about Christianity. Even if the majority of things on the Internet about Islam and about Christianity are only for propaganda or denigration, I also found good and interesting materials for my spiritual research.

In the library, I could only find books about Islam. Therefore, I got good books from friends or I found them on the internet. I also got some books about Christianity from the Orthodox Church. However, it is something they have to hide, because it could be extremely dangerous for them to proselytize Christianity.

I found in the God of Christianity a God of love. He is like a person: Jesus suffered like a human being. This religion is better for me. I don't say about myself that I am a Catholic, I usually say that I like to be "like a Catholic."

I would like to be baptized, but I have to wait to obtain a passport and do it abroad: it is too dangerous to do it in Iran. I also tried to ask some priests here in Iran to baptize me, but they refused to do that, for it is too dangerous.

When he went to university for his bachelor's degree, even if he was studying arts, Hafez had to take some compulsory classes on Islam:

I protested with my professor because I did not want to take those classes; he threw me out of the class. In every university, there are groups of basijis that control students and their behavior. I got scared that they could expel me from university, so I stopped protesting. However, other Iranian friends were agnostic or atheist at that time and they were also protesting those compulsory classes.

Concerning the possibility to practice and profess his faith, Hafez states that he cannot practice the religion he chose for himself:

I go to Church every week, but I have to control if someone is following me. Since Jesus sounds a little like the word "cheese," I usually tell my friends that I am going to

eat cheese (instead of Jesus). I resort this wordplay because I fear that my cell phone is controlled by the secret police.

I have no freedom to profess my religion either. For example, when you take the entry exam for the university, on the registering form you have to check your religion, and I could not say that I am a Christian.

Hafez told about his new faith to his mother and his sister. One day his father also saw the cross on my neck and told him to take it off, because it would have been difficult for him to enter university if someone had seen it:

My dad was not against Christianity in itself, he just thought it could have been dangerous for me to openly profess my faith. He was worried for me.

2.16) Kaveh

Kaveh is a mechanical engineer in his 20s who recanted his faith in Islam to convert to Baha'ism. An Iranian friend gave me his e-mail and warned me not to call Kaveh, because his cell phone has been wiretapped by the secret police. Therefore, I write Kaveh an e-mail and schedule a first meeting to know him and explain to him my field research and the purpose of interviewing members of religious and belief minorities. He agrees to be interviewed and gives me an appointment for July 8th, 2012, in a park downtown Tehran. He seems very concerned about the security of our meeting: he reminds me no to call him on his cell phone, to turn off my cell phone, and take out the battery before I meet him. He will call me from a phone booth if he cannot come to the meeting.

When we finally meet at the park on the agreed day, he wants to have a walk first. He is very cautious and checks if someone is following us. We find a bench in the shade and we decide to sit there.

Kaveh looks smiling at me, as if he wanted to apologize for his cautiousness, and then starts talking about his experience. He first states that there is no freedom to choose one's religion or belief in Iran:

If your parents are Muslims, you must be a Muslim as well. I was born in a Muslim family, therefore I was a Muslim.

Kaveh's voice is firm, but he cannot hide some resentment. He tells me about his childhood and when he started questioning his beliefs:

From third grade we are taught religious units about Islam, and we start studying the Qur'an. This is only advertisement of religion, not teaching of belief. We are forced to study Islam -the governmental interpretation of Islam!- and we are not supposed to question anything about it.

When I was 16 years old, I felt the need to know more about other religious beliefs and traditions, of which Iran is so rich. I then started studying Christianity and Judaism. I had a lot of Jewish and Christian friends with whom I could exchange different views about religion. I also started studying the Persian translation of the Qur'an. There are so many different translations of the same verses, so I realized that nothing is absolute, that there is also relativity in religions. After the Qur'an, I studied the Bible, and I found out that the Bible and the Qur'an share some basic similarities. I also studied Arabic in order to read the Qur'an in its original language. While I was reading the Qur'an in Arabic, I was taking notes and I was writing comments on a notebook. Then, I found out about the Iqan, the holy book of Baha'ism. One of my friends in high school was Baha'i, and we started talking about religion and about the figure of the Mahdi, the redeemer prophet according to the Islamic theology. I came to the conclusion that Baha'ullah was the right prophet, and I understood that I had to change my religion from Islam to Baha'ism. Overall, it took me two years of intensive study to make up my mind and to decide that I wanted to become Baha'i. By that time, I was 18 years old.

Kaveh recalls the hardship he had to undertake in order to enter university:

In Iran, you have to take a competitive entrance examination to enter university. I took this exam when I was 18 years old, after I finished high school. In order to take the entrance exam, however, you have to get an identification card first, which allows you to take the exam. Therefore, I applied for this card, and I received it four months later. On the card there was stated that I was Muslim, even if I had not been asked about my religion when I applied for the identification card. During the enrollment process, you are asked which religion you would like to be questioned about during the entrance examination, since religion is one of the subjects of the exam and you are supposed to answer questions about the religion you chose during the enrollment. I chose Islam

without stating that I was Muslim. When I received the identification card and it stated that I was Muslim, I was surprised. Therefore, I went to the office in charge of correcting identification cards to have it changed. I went there with another Baha'i friend who had the same problem. At the office, we said we were not Muslim as written on the card, but we were Baha'i. The employee got really angry at us, and he said we were not allowed to enter any university, and as Baha'is we should leave the country. He also tried to take our cards away from us, so we left without having them changed. I was really frustrated, and I also thought not to take the entrance exam. Eventually, however, I considered that the only way to change the situation was from within the system, so I took the exam.

If you get a good score in the entrance examination and you achieve a good position in the national ranking, you can have access to the best universities and best programs in the country:

The year I took the test, in 2006, out of 1,5 million students, my ranking was 10 thousandth. It was a medium ranking, not too good, not too bad. I was then accepted to study mechanical engineer in a university in north-western Iran. The day I went to enroll at the university, I was told to fill up a form which consisted in three separate sheets. In every sheet, I was asked about my religious affiliation. In the first and second sheet, there were only four possible religions you could choose from. The third sheet stated that if you were not a member of the previous mentioned religions, you had to choose among a list of other possibilities. There were 13 or 14 other possible religions listed, some of which I had never heard before. I left the three questions empty.

At the registration day, the university was really crowded. I went to submit my registration form at the registration office, and a member of the security staff took it. When he saw that I did not fill up the questions about my religious affiliation, he got really angry and asked me if I was Sunni. He thought I could be Sunni, since there are lots of frictions between Sunni and Shi'a in north-western Iran. I took the chance to distract him from the question about my religion, and I started talking about Sunnism. I did not tell him that I was Baha'i. Eventually, he asked me to give him my postal code, through which the security police can check who you are: they can check, for example, where you live and who are your neighbors, and see if you are Muslim and if you practice religion. After this unpleasant encounter, I was given the student card anyway, and I was really happy to be officially a student.

Kaveh succeeded in entering the university, but his plight was yet to start:

Every day I entered university, I was frightened that they could ask me about my religion and expel me. The atmosphere was really tense: we could not talk about religion! One of my classmates at the university started threatening me because of my religious belief, since I was in touch with the Baha'i community of the city.

After two years, I was summoned by the security service of the university. I went to talk with the head of the security service of my university, and he started asking me if I was praying and if I believed in God and in the Imams. He stated that there were some evil religions, like Baha'ism, that were corrupting students' minds. He then directly asked me if I was Baha'i, but I did not answer. We talked for about 2 hours. At the end of our meeting, he told me I had to go back for another interview the following day.

I attended the second interview with the head of the security service, and again I did not answer him to the questions about my religious affiliation. This happened in the spring of 2010. During that second interview I was threatened to be expelled from university, but eventually it did not happen.

Six months after the second interview, one of my Muslim friends at the university was interested in Baha'ism, and he asked me if he could join us during one of our spiritual meetings, in order to understand more about our religion. Few days before the New Year's Eve of 2011, this Muslim friend and I went to a Baha'i meeting. At the meeting, there were about 10 people and it was 9 p.m. We were talking about economy when someone rang at the door. When a girl went to open, she started screaming: 13 or 14 security agents, fully equipped with guns, rushed into the room. One of them was holding a camera and was recording the scene. The others threatened us not to move. We were really scared. A baby in the room kept crying all the time. The agents started breaking furniture and collecting religious books. One of them came to me, threatening me directly: "Be careful about your work, I know what to do with you!" They took all of us in the kitchen, one by one, and started interrogating us with the camera. They asked me if I was a Baha'i, but I replied that I would not say anything in front of the camera. I tried not to answer to their questions. They stayed there for four hours and eventually arrested three people and released all the others, including me. I did not tell them I was Baha'i, I told them I was Muslim. The day after this episode, I was called on my

cellphone by the secret police and I was summoned to their office. I went to their office, and there were two cars waiting for me outside the building. They took me to my house, and they searched it completely: they were looking for my laptop, which I had given to one of my friends before. After two hours, they only found 20 pages of religious Baha'i materials. I also had in my room a lot of books on other religions. They took all my belongings, including my music CDs and my movies. They said I had to follow them, even after I told them I had exams at the university the following days. They took me in the car, they blinded me and pushed down my head. They brought me to a temporary prison, where they checked me again and took my cellphone. I was brought in a cell and put in solitary confinement. This happened right before New Year's Eve of 2011. I stayed there for 12 days. It was really cold in the cell: it was winter, and they only gave me a sheet to cover myself. I was freezing at night! I begged them to give me some blankets, but I did not receive any. Every three days, I was allowed to walk outside my small cell for 30 minutes.

At this point, Kaveh tells me the details of the 4 interrogations he was subjected to in prison:

After the first day, they took me in a room for an interrogation. The interviewer was the same security officer agent who among other agents broke in at our spiritual meeting few days before: I recognized his voice. He asked me where my laptop was and threatened me. I said my parents had it, so he called them and asked them to come to the city and bring what I gave them.

I had another interrogation the day after. It was a good interview: the interrogator was kind with me and he even offered me a glass of water. He asked me questions about my past and I had to write my answers. He told me not to be too brief in my responses. I wrote about five pages. He told me to write in detail about my acquaintance with the Baha'i community in the city. I wrote everything I knew, because I did not do anything wrong. After I completed my answers, I was sent to my cell again.

The day after, they took me to court and I was told that the reason I had been brought to prison was because I was "advertizing the Baha'i faith."

They took me to prison again for a third interview. Again, they were searching for my laptop; they were looking for the data on my computer. I only had some books on

my computer, normal books on religion, but I thought that if they had found out about them they would have used them as evidence that I was advertizing the Baha'i faith. They asked me about the people with whom I talked about the Baha'i faith. I replied that I was only answering questions and that I never advertized Baha'i faith or tried to talk with other people. The secret police was searching for those people interested to learn about Baha'ism, so I thought it was better not to say their names. However, security policemen were really pushy, and they took numbers and letters of my friends. This third interview was 3 or 4 hours long.

Two days after, the 5th day I was in jail, I had the last interrogation. They told me I would have been sentenced to some years in prison. I was really worried at that point. They blinded me during the interview, and then the interviewer told me that I was dealing with matters that threaten the national security. He told me not to deal with Baha'i faith anymore. I said I was not looking for troubles, but that I loved my Baha'i friends and I could not stop hanging out with them. I returned to my cell and after 7 days my mom came to visit me. I was really sad at that point, but I tried to cheer my mom up with some jokes. My mom was crying. Before meeting her, I was told not to say anything to her about the treatment I was receiving in prison.

While I was in jail, my Baha'i friends published news about my plight on the Internet. I think this really helped me, because security forces found out about this publications, and they knew I was not alone, but there were people caring for me and supporting me outside the prison's walls.

Two days after my mom visited me, I was temporarily released from prison. My mom and my dad came to pick me up. I had my exams at university the same day, but I could not take them. I took them after few weeks, and I passed them with good grades.

After he was released from prison, Kaveh searched for a lawyer for two months, but he could not find anyone:

They would all tell me they could not defend a Baha'i, that defending a case involving drugs or stealing was easier!

In the meanwhile, 40 days after I was released, I received a letter warning me to go to court to defend myself. I went to court and I repeated I was not advertizing Baha'i faith, but I was just answering questions to curious people. The judge accused

me of cheating the security agents of the university, and then he played a recorded conversation I had had at the phone with my girlfriend few months before, after I had the altercation with the security agent the day of my registration at university. The blood froze in my veins: they had been spying me for many months!

The final judgment on my case was suddenly postponed of three months. I was really happy, because I had more time to find someone to defend me. Eventually, I found a lawyer willing to defend me.

The day of the judgment, I went to court. The judge was a clergy man. His first question was: "Are you a Baha'i?" Since I reply that I was not a Baha'i, he said: "Good, since you are not a Baha'i we can treat you better." He asked me about my activities at the university. I said I was really active at the university and I also had the best grades. I repeated that I was only studying with Baha'is and not advertizing Baha'i faith to other people. He asked me which books on religion I read. I told him 10 titles, and he knew them. The judge was kind with me, the session was normal, but after two weeks I received a negative response from the court: I was sentenced to one year in prison. The sentence, however, was not put into force. I received three years of probation instead of going to jail: if I do not commit any crime in these three years, my sentence is cancelled. Two years have already passed. They also sentenced me to attend 50 hours of Islamic teaching, but I am not going to attend them. It is only propaganda!

After the sentence, Kaveh escaped from the city in the north-west of Iran and went to Tehran, where he has been working as a mechanical engineer. Even if he finished the university, he has never gone back to collect his degree:

I'm afraid that if I go back the secret police will arrest me again. In Tehran I feel safer: the city is so big and crowded to the point that you can hide yourself easily.

We finish the interview: Kaveh seems exhausted. He has talked for almost two hours. I invite him to drink an orange juice to get some refreshment. While we are walking to the coffee shop, he utters one last consideration:

My girlfriend is Baha'i, but my parents, after I was arrested, do not want me to be in a relationship with her anymore. I would like to marry her, but this is going to be very difficult: why can't we be together and happy? My parents are not religious, but after I was arrested they are worried for me and for my future.

2.17) Mojtaba

Mojtaba is a graphic designer in his 20s. He grew up in a Muslim family, but now he professes to be agnostic. We meet for the first time at a house party of a common friend, during which I explain to him the purpose of my field research. He is interested in my project, and he agrees to be interviewed. We schedule to meet each other on June 16th, 2012, and Mojtaba invites me to go to his house.

On the agreed day, I go to Mojtaba's house in the south-western part of Tehran. The house is small, but it is tidy and cozy. We sit on the couch, and he offers me some tea and sweets. Before we start talking, he brings our cell phones to the other room of the house and closes the door. He believes, like other participants to this field research, that the secret police can hear our conversation through the battery of our cell phones.

According to Mojtaba, if you are not religious in Iran, you can live easily:

No one is going to bother you, if you do not advertize your beliefs. However, it is easier to go to a good school or to find a job if you show that you are a Muslim.

Religious schools have more money from the government. They ask you about your religion when you apply, and you have to show them that you are a faithful and practicing Muslim.

I attended a religious high school, for it was one of the best schools available in my hometown. Before accepting me, they interviewed both me and my parents: we had to show them that we were religious! In high school, they gave us space to talk about our beliefs, they controlled us very elegantly and smartly, giving us the impression of some freedom in the discussion. Therefore, during high school, I became more religious, even if I did not pray nor fast during Ramadan.

After high school, Mojtaba attended an art university in Tehran:

At the university, professors did not impose their ideas that much. I just had to go and take my exams. I had some free time to do research on the subjects of my interest, so I started reading books from the library. I read books to know more about philosophy and religion. Since all the books at the library expressed an ideological Islamic perspective, while I was reading them, I was careful to pick up only the original

material from the philosopher or the author and to omit the Islamic criticism: I wanted to understand and criticize the books by myself! I then abandoned Islam. I first tried to approach other currents, like Sufism, but now I define myself as agnostic.

At the university, Mojtaba had to take, like all the other students in Iran, some compulsory religious classes. He explains to me in details the contents of these classes:

The first class is the reading of the Qur'an out loud. For girls, the professor has to be a woman, since men are not allowed to hear women reading the Qur'an out loud. Parallel to this course you have to attend either "Interpretation of the Qur'an" or "Interpretation of Imam Ali's book", called Nahjolbalaghe.

The second class is either "History of the Islamic Revolution" or "History of the Iran-Iraq war". These two classes are ideologically oriented and there is no chance to discuss or disagree with what the mullah says. If you disagree with what the mullah says, you can get punished and be suspended for either a semester or two.

The third class is Islamic theology 1 and 2. During these classes you learn about the 5 principles of Shi'a Islam: you have to believe in the prophet Mohammad; you have to believe in the Imams; you have to believe in the world after death (heaven and hell); you have to believe in the justice of Allah, the Lord of the world; you have to believe that Allah is the one, only God.

The last class is Islamic Ethic; you can either choose Applied Ethic or Theoretical Ethic.

Mojtaba stresses that when you apply to university you have to declare your religion:

You cannot write in the form that you are an atheist or an agnostic, this is not acceptable! If you are Muslim, you also have to specify which kind of branch you belong to. If you state that you are a Muslim, you have more chances to enter university.

According to Mojtaba, most of the people in Tehran have a secular life, but they keep religion as a cultural tradition.

Before I leave, he wants to show me some of his pictures on the Internet; he seems very proud of his computer. He complains about the slow speed of the

Internet connection; however, he points out how the Internet and the satellite are the two most important sources of information for him today.

2.18) Mohsen

Mohsen is a student of theater in his 20s. I meet him during an art exhibition in Tehran. He invites me to go to his dormitory and meet his roommates. The guard at the front door of the building does not pay attention to me and waves his hand to greet Mohsen. I spend the night with him and his 3 roommates in their small room. We talk about music, theater, and Italian cinema. They also sing some traditional Iranian songs for me. I eventually explain to Mohsen the purpose of my field research, and he is willing to take part in an interview with me as a member of a faith minority. He declares , in fact, to be an atheist. We schedule an appointment for July 10th, 2012, in a park in downtown Tehran.

We meet again on the agreed day, and we sit on the grass underneath a tree that shades us. Mohsen lights himself a cigarette and starts talking about his family and his childhood:

I grew up in a Muslim family in a city in the north of the country, close to the Caspian sea. My dad has never been a religious person. When I was at the elementary school, the teacher was asking us if our parents were praying every day. As I told him that my dad was not praying, the teacher laughed at me and replied that it was not possible. Another teacher, friend of my parents, reported this accident to my dad, so he told me not to say anything like that ever again. From that moment, I must have told the teachers that my parents prayed every day, and that they were observant Muslims; otherwise, my parents could have lost their jobs.

With a grim smile on his face, Mohsen states:

We learn how to lie since we are little kids, and we are legitimized to do that! Then, when we grow up, we keep lying to attend university or to find a good job. For example, I had to state I was a Muslim on the form when I applied for the competitive examination to enter university. Luckily, I am attending an art university and most of my friends are not religious either. However, I had to attend the compulsory religious classes, but also the professors were not too strict about our religious knowledge.

Usually, in other universities, if you fail a religious class you have to retake it, and professors are very strict. Maybe you have already completed all the other classes, and you still need to take the religious ones. In my university, I did not have to study for these classes!

According to Mohsen, people in Iran are entrusted with two major identities: the Iranian identity and the Muslim one:

The government gives priority to the Muslim one. You must be first and foremost Muslim, and if you do not believe that, just fake it! There is a lot of hypocrisy. This government, however, does not represent religion, but just a political interpretation of it and people have started to realize that.

At the end of our conversation, Mohsen notes how through the Internet he has been able to find another means of knowledge and information:

Thanks to the Internet -even if the connection is painfully slow- I have been able to find out about other religious and philosophical ideas. I had access to some important books that I could have never found in a library here in Iran.

Table 2: Quantitative summary of participants' answers to the guide questions

Name-Religion ↓ / Guide Questions →	Equality of rights	Freedom to change religion or belief	Freedom of others to adhere to your religion or belief	Freedom to practice your religion or belief	Freedom to attend places of worship	Does the State hinder these practices?	Can you teach your religion?	Freedom to profess your religion or belief	Freedom to speak and use your language	Can you enjoy your cultural tradition?
Nouri - Armenian	Yes	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes
Reza - Armenian	Yes	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes
Parviz - Armenian	No	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes
Sami - Armenian	No	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes
Youness - Jew	No	Yes	No	Yes	Yes	No	Yes	No	Yes	No
Rostam - Jew	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No
Mehrab - Zoroastrian	No	Yes	No	Yes	Yes	Yes	Yes	No	/	No
Kia - Zoroastrian	No	Yes	No	Yes	Yes	Yes	Yes	No	/	No

Babak - Zoroastrian	No	Yes	No	Yes	Yes	Yes	Yes	No	/	No
Cyrus - Baha'i	No	Yes	No	No	No	Yes	No	No	/	No
Farshad - Baha'i	No	Yes	No	No	No	Yes	No	No	/	No
Ali - Baha'i	No	Yes	No	No	No	Yes	No	No	/	No
Bardia - Baha'i	No	Yes	No	No	No	Yes	No	No	/	No
Marjan - Baha'i	No	Yes	No	No	No	Yes	No	No	/	No
Hafez - Convert to Christianity	No	Yes	No	No	No	Yes	No	No	/	No
Kaveh - Convert to Baha'ism	No	Yes	No	No	No	Yes	No	No	/	No
Mojtaba - Atheist/Agnostic	No	Yes	No	No	No	Yes	No	No	/	No
Mohsen - Atheist/Agnosic	No	Yes	No	No	No	Yes	No	No	/	No

3) Themes Emerging from the Life Histories

In the previous section, I introduced 18 different stories of religious and belief minorities living in the Islamic Republic of Iran. In this section, by applying a thematic analysis to each story, I underline the main themes that have emerged from the interviews. A thematic analysis, which is a "*method for identifying, analyzing and reporting patterns (themes) within the data,*"[1] is perceived as a foundational method for qualitative analysis.[2] This analysis "*involves searching across a data set –be that a number of interviews, or a range of texts– to find repeated patterns of meaning.*"[3] For the thematic analysis two main steps were involved: first, reviewing the transcripts and trying to make sense of the interview data; and second, making sense of what is being said by the participants as a group.[4]

Following this analysis, seven major themes have been identified, with few other sub-themes:

1. Emigration
    1.1 Education
    1.2 Love and Religious Communities
2. Freedom Within Four Walls
3. Active Oppression of Religious Freedoms
4. Employment
5. From the Society to the Government, a Changing Pattern of Discrimination
6. The role of the United Nations and the International Support
7. The Role of the Internet and Other Media

3.1) Theme 1: Emigration

Most of the participants (12 out of 18) talked about the emigration issue during their interviews. According to the members of recognized religious minorities (Armenians, Jews, and Zoroastrian), this issue represents one of the main challenges for the future of their communities, given that a great percentage of their population

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[1] Braun, Virginia, and Clarke, Victoria. "Using Thematic Analysis in Psychology." *Qualitative Research in Psychology*, vol. 3, 2006, p. 79.

[2] See Bryman, Alan. *Op. Cit.*, and Carpenter, Christine, and Melinda Suto. *Qualitative Research for Occupational and Physical Therapists: A Practical Guide*. Oxford: Blackwell Pub, 2008.

[3] Braun, Virginia, and Clarke, Victoria. *Op. Cit.*, p. 86.

[4] Minichiello, Victor. *In-depth Interviewing: Principles, Techniques, Analysis*. Melbourne: Longman, 2008.

has left Iran since 1979. The last official figures of the Statistical Center of Iran for the year 1385 (2007-2008 C.E.) -reported at the beginning of Chapter 3- are as follows: 19,823 Zoroastrians, 109,415 Christians, and 9,252 Jews.[5]

As far as Armenians are concerned, Nouri stressed how Armenians emigrate to look for job opportunities and more freedoms, without specifying which kind of freedoms they may look for. Parviz observed that Armenians want to go to a Christian country, "*where women are not forced to wear the scarf.*"

In regard to the Jewish community in Iran, Youness expressed a strong pessimism about the survival of the Jewish community in Iran, which is becoming smaller and smaller every day. He went as far as predicting that "*it will disappear soon.*" This perception was reinforced by Rostam, who stated that "*the future is really dim for the Iranian Jewish community*" because "*most of the Iranian Jews are leaving the country.*"

Even if Kia depicted a similar dim future for the Zoroastrian community, due to the fact that most Zoroastrian people emigrated, he wanted to introduce an element of hope: "*even if one thousand of us remained, that would be something to be hopeful for!*"

According to the Baha'i participants, the emigration of Baha'is is actively supported by the government, which wants Baha'is "*to leave the country.*" For example, as stressed by both Cyrus and Bardia, it is easy for Baha'is to obtain the passport, even if they have not completed the military service, which is usually a necessary condition to obtain the document.

Two other issues are directly related to the high emigration figures: the concern about education and the possibility of finding a partner within the same religious community. These two sub-themes of emigration will be discussed separately.

3.1.1) Sub-Theme: Education

Recognized religious minorities are allowed to have their own schools where they can teach their religion, history, and cultural or linguistic traditions. "*There is*

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[5] Iran Statistical Yearbook 1386: (2007-2008). Tehran: Statistical Centre of Iran, 2009, p. 108. The last survey on Iranian population has been undertaken by the Statistica Center of Iran for the years 2011-2012, but the official figures are not available yet.

some degree of freedom," Nouri stated concerning the freedom to teach within the Armenian community. However, since the population of Armenian, Jewish, and Zoroastrian students has been constantly decreasing in the past decades, private schools belonging to these communities are either closing or accepting students from other religious communities. When private schools belonging to a religious community are not available anymore, students have to attend a public school.

According to Reza, Armenians are allowed to teach their religion in their schools; however, there are "*very few Armenian schools left in Tehran*," since "*we do not have enough Armenian students and Muslim students are not allowed to attend our schools.*" Therefore, Armenian students have to attend public schools where "*there is no Christian education,*" and where "*they do not learn about our religion or about the Armenian language and history.*" Sami reported that, since there were not enough Armenian students to fill up a class, he had to attend a public high school, where "*Armenian history is not taught,*" and *"it is all about the Islamic revolution of 1979 and Islam."* Moreover, according to Sami *" the strongest pressures on Armenians is at school, because we have to learn all about Islam, and little students of 8 or 9 years old may be influenced by these ideas and forget about their own tradition.*"

Analogously, Rostam stressed that there is only one Jewish elementary school left in Tehran, and in public school "*they don't teach anything about the Iranian Jewish community.*"

Mehrab and Kia mentioned the same kind of hardships for the Zoroastrian community. Mehrab attended Zoroastrian schools, where he learned about his religious tradition; however, "*there are only two Zoroastrian elementary schools in Tehran,*" and "*sometimes families live too far from them, and they cannot send their children there.*" Therefore, "*parents have to enroll their children in a normal public school*" and send them to Friday classes in Zoroastrian community centers to learn about their religious tradition. At the same time, Kia recalled that, since less than 50% of the students who attend the Zoroastrian high school are now Zoroastrians, "*we cannot teach our religion anymore. The school is not Zoroastrian, but it became a public school.*" He also stressed that in public school "*they only teach Islamic tradition, nothing about Zoroastrianism, neither religion nor culture or history.*"

3.1.2) Sub-Theme: Love and Religious Communities

Marriages between members of religious minorities and Muslims are not allowed, unless the partner who is not a Muslim decides to convert to Islam. This issue is becoming more and more serious within the recognized religious minorities since their population is diminishing and the possibilities of finding a partner within the same religious community are simultaneously becoming slimmer.

Reza, for example, explicitly noted that his partner choices "*are very limited.*" Besides Reza, both Youness and Rostam reported to have had a relationship with a Muslim girl, but they broke up because they either could not get married, or because their relationship was not accepted by their families.

Rostam summarized the seriousness of this situation in one of his comments: "*I have another Muslim girlfriend now, and we want to go abroad together in order to stay together. Her parents do not accept our relationship, but I don't want to lose my girlfriend another time because she belongs to a different religion.*"

3.2) Theme 2: Freedom Within Four Walls

Almost all members of recognized religious minorities who took part in the field research stated that their communities can enjoy some degrees of religious freedom, but they all stressed, at the same time, that these freedoms are strictly confined to the religious communities themselves. Armenians, Jews, and Zoroastrians, therefore, can preach and practice their religion, their culture, and their language within the limits of their own communities.

"*There are no limitations within the [Armenian] community,*" stressed Nouri, highlighting the positive aspect of these freedoms. Reza, instead, talked about a "*limitation to be free only within the minority community.*" Therefore, "*you cannot preach in Farsi to Muslims, you can only preach in Armenian within the Armenian religious community.*" Parviz, at the same time, pointed out that the government does not allow Armenians to preach to Muslims: "*They will close the church if I preached to Muslims. They let us free to do our business within our communities.*" Sami was even more straightforward when he stated that "*within the boundaries of our community we are free, but if we pass the limit, the government will punish.*"

Rostam highlighted the same patterns when he talked about the Jewish community: "*It is forbidden to wear the kippah in the streets, we also cannot show symbols of our religion, like the David star… we have to hide it. You can only practice your religion in the synagogue or in your private house!*"

Both Kia and Babak recognized the freedom to practice the Zoroastrian religion "*within our four walls.*" As Kia pointed out, "*no Muslim can be invited during our celebrations. We are not allowed to preach our religion to Muslims: no propaganda can be done and no brochures can be distributed to Muslims. We cannot give our books to Muslims, we cannot discuss with them about our beliefs either: it is forbidden by the law of the state.*" Moreover, Babak stressed that Zoroastrians "*must have permissions for every ceremony, and during Islamic religious festivities (we) are very limited.*"

3.3) Theme 3: Active Oppression of Religious Freedoms

An active oppression on the part of the Iranian government and the Ministry of Intelligence and National Security has been attested by all the Baha'i participants to the field research.

First of all, Baha'is are not allowed either to practice or to profess their religious belief; moreover, they are not granted either permission to have official representatives or official places of worship, so they usually gather in small groups in private houses.

Cyrus' father was arrested for holding religious gatherings in his house and was convicted for 6 months. Farshad and Ali were arrested for the same reason and spent more than two months and six months in prison, respectively. Few years after the revolution of 1979, Bardia's aunt, grandmother, and grandfather were killed by the government "*for being active members in the Baha'i community.*" Kaveh converted to Baha'ism and was taking part in religious meetings with other Baha'is. He was accused of "advertising the Baha'i faith" and spent 12 days in solitary confinement. He was then sentenced to one year in prison, but instead of going to jail he received three years of probation.

3.4) Theme 4: Employment

Most of the participants were concerned about employment and pointed out how they are prevented to access the highest positions in the public sector.

According to Nouri, finding jobs for the younger generations is the main problem the Armenian community has to face. Reza stressed that since Armenians can find jobs only in low ranking public positions, most of them work in private businesses. Sami mentioned, among these private businesses, music, cinema, photography, and the car industry.

Youness and Rostam highlighted the same condition regarding the Jewish community: Jews have no chance to find a job in the public sector, therefore most of them own private businesses.

Mehrab pointed out that "*every time a new job position is advertized, it is specified if they want to hire only Muslims or also members of recognized religious minorities.*" According to Kia "*managerial positions are usually hold by Muslims, especially in the public sector: army posts and governmental posts are forbidden to Zoroastrians, because that would mean that a Zoroastrian would give orders to a Muslim.*" Therefore, most of the Zoroastrians work in private businesses.

Baha'is cannot work in the public sector either; therefore, most of them work in private sector. However, according to Farshad, Baha'is experience some limitations in this sector as well. Bardia pointed out, for example, that it is difficult for Baha'is, if they own a shop, to renew the license every year, since "*the government finds excuses not to renew these licenses.*" Another example was presented by Marjan. When she completed his degree in law, since she could not become a lawyer due to her religious belief, she tried to work as an assistant for a lawyer, "*but when he found out I was Baha'i, he did not want me to work with him anymore.*"

3.5) Theme 5: From the Society to the Government, a Changing Pattern of Discrimination

During the interviews, some members of religious minorities noticed that the discrimination against their communities has diminished from the part of the Iranian society, and it has instead augmented from the part of the government.

Both Youness and Bardia, the former being a Jew and the latter a Baha'i, experienced similar episodes of discrimination from the part of their teachers at elementary school. During a rainy day, Youness' teacher told the other students not to come close to him "*otherwise they could have become dirty and unclean.*" Bardia's teacher, instead, told him that he could not take part in a science project, because he could not touch the ice needed for the experiment: "*The reason was that, since I was a Baha'i, I would have made the ice dirty.*"

Babak noticed that at the beginning of the revolution, public opinion was adverse to Zoroastrians, whereas nowadays "*most people are friendly with us.*" According to Babak, "*after so many years of political pressure and enforcement of Islamic laws, a lot of Muslims have found out that the government is not always right only because it presents an Islamic façade.*"

Ali, on the one hand, stressed in his story the hostile position of society towards Baha'is when he was a child: "*ordinary people in my village would attack us and our houses because we were Baha'i. Also the mullah would order people to destroy our properties and to force us to go to the mosque to convert.*" Farshad, on the other hand, enthusiastically talked about a revolution that has started, in the recent years, in the behavior of Iranians towards Baha'is: "*thirty or forty years ago, people were against us and would attack us for our faith. Now, it is the Iranian Government, not the people, who is against us; the people support us, they respect us and see us as good and friendly people. It is the government that limits us and wants us to leave the country.*" Marjan presented the situation in a similar way: before the revolution, "*it was the society which rejected us with the support of the mullahs. Today the government is against us, not the society. People have understood that we are honest and good people.*"

3.6) Theme 6: The role of the United Nations and the International Support

A few participants explicitly mentioned the positive role of the United Nations and that of the International Community in promoting and defending religious and belief minorities in Iran.

Sami, for example, stated that "*the United Nations and the international community have proven to be helpful when the Armenians in Iran have been under pressure by the government.*"

Farshad also expressed his appreciation toward the international community, which has proven to be effective in pressuring the government to avoid "*even worst action*" against Baha'is. Bardia talked about the same international pressures on Iran, which helped Baha'i, at first, to be accepted at universities.

3.7) Theme 7: The Role of the Internet and Other Media

The role of the Internet and of the satellite has been highlighted by a few participants.

These means of alternative information can help people, according to Babak, to "*see a different world outside the Islamic Republic.*"

Hafez, Mojtaba, and Mohsen talked about the internet as a useful means for collecting information and acquire knowledge. Hafez found information about Christianity online: "*Even if the majority of things on the Internet about Islam and about Christianity are only for propaganda or denigration, I also found good and interesting materials for my spiritual research. I got good books from friends or I found them on the internet.*" Mojtaba pointed out how the Internet and the satellite "*are the two most important sources of information*" for him today. Also Mohsen noted how he has been able to find out about other religious and philosophical ideas through the Internet: "*I had access to some important books that I could have never found in a library here in Iran.*"

Finally, Kaveh remembered how his Baha'i friends published news about his plight on the Internet, while he was in jail: "*I think this really helped me, because*

security forces found out about this publications, and they knew I was not alone, but there were people caring for me and supporting me outside the prison's walls."

4) Final Remarks

The purpose of this chapter was to understand how religious and belief minorities live in Iran, how they relate to the State and the rest of society, and which rights are practically guaranteed to them. In order to investigate these different aspects, a quality approach and a life-history methodology were implemented and a set of guide questions were developed.

We can draw some final remarks in regard to the initial questions that guided the field research from both the life-histories and the themes that have emerged from them.

First of all, we should notice a clear and significant difference between the experience of recognized and non-recognized religious minorities. The members of the first group can enjoy, within the boundaries of their own communities, some freedoms concerning the expression and the practice of their religions or beliefs. They are allowed to hold the belief of their choice and also to change that belief; however, while members of religious or belief minorities could theoretically convert to another religion –even if this action could exclude them from their own religious community- no Muslim is allowed to change his or her belief. On the contrary, members of non-recognized religious or belief minorities, like Baha'is, converts or atheists, are not even allowed to officially hold their own beliefs. The crime of apostasy, in fact, even if it is not codified in Iran's Penal Code (analyzed in Chapter 2, Paragraph 4.2) is recognized as a crime in *Shari'ah* law and by the founder of the Islamic Republic, Ayatollah Ruhollah Khomeini.[6]

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[6] An important element to take into consideration is the inherent tension in Iranian law between the concept of codified law and judge's ability to rely on religious sources like *Shari'ah* or other reliable *fatva* (legal pronouncement) issued by high-ranking Shi'a clerics. In fact, the Iranian Constitution, on the one hand, stresses in article 26 that "the passing and execution of a sentence must be done by a competent court and in accordance with the law", and in article 166 that "verdicts of courts must be well reasoned and documented with reference to articles and principles of the law;" on the other hand, however, it recognizes in Article 167 that "in case of the absence of any [codified] law, [a judge] must deliver his judgment on the basis of authoritative Islamic sources and authentic *fatwa*." Moreover, the inclusion of Islamic law as a source of non-codified civil or criminal law is also affirmed in Article 214

Concerning the equality of rights between members of religious and belief minorities compared to other Iranian citizens, both members of recognized and non-recognized minorities pointed out the issue of discrimination relating to the job market. As we stated above in theme no. 4 (Employment), religious or belief minorities are prevented to access the highest positions in the public sector due to their religious beliefs. Most of them, therefore, have jobs in the public sector or try to emigrate in order to find better opportunities.

Members of recognized religious minorities can freely practice their religion and can gather in official places of worship with other members of their communities. They also have community centers where they can celebrate religious festivities and other religious ceremonies. However, as emerged during the interviews and as highlighted in the theme no. 2 (Freedom Within Four Walls), no Muslims are allowed to take part in religious ceremonies of other belief communities. Sami, for example, recognized that within the boundaries of their own community, Armenians are free to pray and to gather, "*but it is strictly forbidden for Muslim [...] to attend our churches.*" According to Sami, there are people who control if Muslims try to attend Armenian places of worship and "*if this happens, they report it to the authority and the authority can close our church.*" At the same time, Rostam, who is Jewish, stressed that he has many Muslim friends, but he cannot go to the synagogue with them since the security agents control who enters: "*If they see that a Muslim or other non Jewish people try to enter the synagogue or to speak with you, it could be dangerous, because they would think that you want to advertize your religion, and this is not allowed by the law.*" Kia reported a similar situation for the Zoroastrian community he belongs to: "*Within our community we have some freedoms [...] as long as we cooperate. Within our 'four walls' we are free to practice our religion.*" However, "*no Muslim can be invited during our celebrations.*" Babak, who is Zoroastrian, confirmed this situation when he stated that Zoroastrians can have mixed parties with men and women "*but there cannot be Muslim attending, otherwise we may incur in big troubles.*" Moreover, Kia and Babak highlighted a couple of regulatory State practices that hinder the freedom to practice their religion and cultural traditions: Zoroastrians must have permissions to do every activity which concerns their religion and their tradition and they are not allowed to

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of the Criminal Code of Procedure. See Sanei, Faraz. *Codifying Repression: An Assessment of Iran's New Penal Code*. New York, N.Y.: Human Rights Watch, 2012, pp. 31 and 34.

build new places of worship in Iran, but only to restore those places that already exist.

As long as members of non-recognized religious and belief minorities are concerned, they are not allowed to freely practice their religion or belief. Baha'is do not have official places of worship anymore, after they had been confiscated or destroyed in the aftermath of the Islamic Revolution of 1979; therefore, they gather in private houses. Converts have to hide their chosen beliefs and cannot freely attend places of worship. For example, Hafez, who converted to Christianity, would go to Church every week, but he would control if someone is following him. He would also resort to a wordplay to tell his friend he is going to church for fear that his cell phone is controlled by the secret police. Atheist or agnostic can talk privately about their beliefs with friends and classmates, but they cannot publicly hold debates or discussions.

Recognized religious minorities can freely teach their religion and their language (in the case of Armenians) in private schools. However, the issue of migration pointed out in the theme no. 1 is seriously threatening their chances to keep functioning these institutions. On the other hand, non-recognized religious and belief minorities are not allowed to have their own official schools, but have to secretly meet in private houses.

Finally, it has been pointed out by both recognized and non-recognized religious and belief minorities that they cannot freely profess (i.e. "proselytism" and "missionary work") their religion or belief. It is forbidden by law to proselytize to Muslims.

Considering that most of the limitations on religious and belief minorities derive from State regulations and that discrimination against their communities has diminished from the part of the Iranian society, and it has instead augmented from the part of the government (as highlighted in theme no. 5, From the Society to the Government, a Changing Pattern of Discrimination), we can eventually support the initial hypothesis of the study: there are no inherent contradictions between the religious and cultural tradition of Iran and modern human rights. Violations of minority rights and freedom of religion and belief are, therefore, first and foremost a consequence of political and constitutional inadequacies on the part of the Iranian

State. Moreover, the exclusive emphasis on forging nationhood on the basis of an exclusive Islamic Shi'a identity (rigidly defined by the State) has prevented members of other religious and belief affiliations, even the recognized ones, to fully enjoy the rights of citizenship.

Sanasarian reminds how, before the 1979 Revolution, everyone was an "Irani" if only as a political fabrication; however, after the Revolution, Irani was replaced by "*aqaliat*" (minority) and "*hamvatan*" (fellow countryman/countrywoman) was replaced by "Muslim sisters and brothers." These State-regulated designations were reflected in school textbooks, communal and national commentaries, and debates. The "*aqaliat*" began to designate "the other," "the marginal," "the separate from us." It came to represent an institutionalized "otherness" created by the theocratic system.[7]

This situation is evident from two different statements by two interviewees. Sami, talking about how Armenians are free but have limitations, said that they should accept these limitations and then stressed "*I feel I am a guest in my own country!*". Rostam, commenting on a similar issue, stated that "*For the government, I am Jewish first, then Iranian, but I feel I am Iranian. This is my country.*"

The Iranian government is, therefore, compromising the long-term development and survival of religious and belief communities while granting them some controlled cultural and religious freedoms in the short term, under the forced agreement that they do not recruit members from amongst the Muslim population.

A long-term development and survival, however, should not just be assessed for the group's internal and separate development, but it also requires a healthy interaction with society at large. Minority rights recognize that minorities should be able to effectively participate in society at large and in all matters concerning them. It is only through these provisions that Iranian religious and belief minorities can achieve a long-term development.

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[7] Sanasarian, Eliz. *Religious Minorities in Iran.* Cambridge: Cambridge University Press, 2000, p. 154.

Conclusion

This study sought, at first, to achieve a comprehensive understanding of the modern human rights history, philosophy, and legislation in order to better ground the issue of universal minority rights.

Secondly, through the case study of the Islamic Republic of Iran, it sought to gain information about the factors that may impinge on a universal implementation of minority rights and freedom of religion and belief. The international community and policy makers could use concrete life-history examples, like those reported in this study, to make more informed decisions about how to better serve these marginalized communities and uphold universal protection and promotion of religious and belief diversity.

The central question formulated at the beginning of this study concerned the possibility to uphold religious minority rights and freedom of religion and belief on a universal scale.

At the end of this study, I believe it is not only possible, but imperative, to uphold religious minority rights and freedom of religion and belief on a universal scale. It is worth, at this point, to briefly retrace the tenets that have sustained this last claim throughout this research:

1. The modern concept of human rights.
2. The possibility of a cross-cultural overlapping consensus on human rights.
3. An approach that privileges a complementary bottom-up and top-down validation for universal human rights.
4. A cross cultural dialogical approach to human rights.
5. A thorough understanding of religious minorities' rights and freedom of religion and belief.
6. The concrete life-histories of 18 members of religious and belief minorities living in the Islamic Republic of Iran.

1. The Modern Concept of Human Rights

First of all, we defined the modern concept of human rights and we strove for finding a balance between universalism and cultural diversity that avoided any essentialist appropriations of human rights. Therefore, we defined human rights as legally enforceable moral claims or entitlements that are held by an individual human being vis-à-vis the State government, for the protection of the inherent human dignity of the human being. At the same time, we stated that human rights are legitimate, valid, justified claims, proclaimed by every human being, upon his/her own society –claims to guarantees and safeguards, and to goods and benefits that are essential to personal well-being and dignity. The purpose of human rights is, therefore, to protect people, individually or in a group, against the State, other groups or, if necessary, against their own social group. They are rights that allow the human beings to protect their inherent human dignity from the abuse of power perpetrated by the State or by nongovernmental actors from whom the individual has a right to State protection.

One of the main characteristics of modern human rights is that they are held by human beings as attributes of their human personality and not as rights granted by any human authority -be it the State, the monarch, or the family- or by another institution, either secular or religious. The modern idea of human rights, in fact, implies equality among all individuals regardless of their status or group membership and implies that there is no "natural" or ascribed hierarchy.[1]

While it has been acknowledged that the elements constituting the idea of human rights can be found in various pre-modern traditions and developments, by modern "human rights" we referred to the system of internationally negotiated and accepted human rights norms as developed after 1945, mainly under the auspices of the United Nations Charter. The United Nations Charter constituted, in fact, the first international agreement in which the countries of the world made a commitment to promote human rights at the international level.

Moreover, it is worth remembering the hermeneutic standpoint adopted in this study, according to which it is only in retrospective that we can build a bridge between modern human rights and the sources of religious or cultural tradition.

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[1] Howard, Rhoda E. *Human Rights and the Search for Community*. Boulder: WestviewPress, 1995, p. 131.

Such hermeneutical awareness has been assumed as the best way to counter essentialist appropriations of human rights. The appreciation of human rights from the standpoint of different religious or cultural traditions, therefore, should not lead to forms of essentialist ownership. It would be immediately problematic, in fact, to "base" human rights on the Bible, the Gospels, the *Qur'an*, the Avesta, the Hindu holy scriptures, or the teachings of Confucius, for as a result of such essentialist approaches, the idea of universal human rights would easily get lost in a variety of competing religious and cultural conceptions.

The historian Johannes Morsink has stressed the "epistemic influence" of World War II on the drafting of the Universal Declaration. All the delegations, in fact, generally agreed that the gross human rights violations and abuses that occurred during World War II constituted the major impulse behind the drafting of the Declaration.[2] The experience of the Holocaust and the genocidal horrors of the Third Reich were, then, adopted as epistemic foundation for the principles enshrined in the Universal Declaration -the firm conviction that all humans, by the simple virtue of being human, are equally entitled to the most basic fundamental rights- with no need for further philosophical arguments.[3] We then considered that each human right has its own justification at the very moment when that right is violated in some gross way. It is basically a negative conception of justice, because we need to be presented with clear cases to what we want to avoid. This same conviction has brought the present study to focus on a particular case study in order to bring the attention on specific life experiences of religious and belief minorities. This approach stresses the importance of moral rebellion to concrete violation of human rights as a starting point for the defense of universal human rights.

Universalism has been defined as the view that some moral claims are universally valid. However, to defend the statement that human rights are "universal" did not bring us to argue that they are necessarily accepted by or acceptable to everyone, given the diversity of political and ethical beliefs.[4] The claim that no moral principle is universally accepted, at the same time, did not imply that

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[2] Morsink, Johannes. "World War Two and the Universal Declaration." *Human Rights Quarterly*. 15.2 (1993), p. 357.

[3] Rosenfeld, Michael. "Can Human Rights Bridge the Gap between Universalism and Cultural Relativism? A Pluralist Assessment Based on the Rights of Minorities." *Peace Research Abstracts*. 39.2 (2002), p. 249.

[4] Beitz, Charles R. "Human Rights As a Common Concern." *American Political Science Review*. 95.2 (2001), p. 274.

no moral principle is universally valid; otherwise, as remembered by Amartya Sen, the category of universal moral claims might well be completely empty, since it would be almost impossible to find a moral claim to which no one has ever objected. Universal consent, then, was not assumed to be required for something to be a universal value. Rather, supporting a universal value means that it applies to or may be claimed by everyone, and that people anywhere may have reason to see it as valuable.[5]

On the other hand, we have seen that the moral theory supporting cultural relativism holds that although for every culture some moral claims are valid, no moral claim is universally valid, that is, valid for all cultures. Therefore, every moral claim is seen as culturally relative. Cultural relativism was alternatively expressed as the view that, although all cultures are subject to moral standards, it is not possible to uphold a moral standard that applies to all cultures.

Cultural pluralism and diversity have been assumed in this study as sheer facts. Moreover, different cultures accept radically different moral principles. Cultures differ, often significantly, across time and space; however, the need to acknowledge diversity and variation has been stressed, since they are found not only between cultures but also within each local culture. Cultural relativists tend, instead, to totalize the concept of culture, as if there were uniform, unchanged, dominant culture within any given society, disregarding empirical evidence of variety and diversity within the same culture.[6] Both Western and non-Western traditions have much variety within themselves. The recognition of diversity within different cultures was important in order not to recur to oversimplified generalizations about "Western civilization," "Asian values," "African culture," "Middle Eastern civilization," and so on. Cultures, therefore, are not homogenous, coherent, consensual, or static entities. Cultures have been presented as clusterings of symbols, practices, and meanings over and with which members of a society constantly struggle. Culture, like the individual, is adaptive. Customs, values, and norms do indeed help to keep society together and elements of cultures do have a strong hold on people's individual psyches, but they are also permeable and changeable. Indeed, change is part of the nature of cultures, which are above all

[5] Sen, Amartya. "Democracy As a Universal Value." *Journal of Democracy*. 10.3 (1999), p. 15.
[6] Mayer, Ann E. "Universal Versus Islamic Human Rights: a Clash of Cultures or a Clash with a Construct?" *Michigan Journal of International Law*. 15.2 (1994), p. 384.

social creations. If a culture were an all-encompassing monolithic entity, it would have been impossible in practice for philosophers, lawyers, human rights activists, or ordinary people to transcend cultural-boundaries and to make ethical judgments of their own customs.

2. The possibility of a cross-cultural overlapping consensus on human rights

Considering the focus of human rights on political and legal justice, we viewed the Universal Declaration as a proposal for a cross-cultural overlapping between moral and political consensus on human rights in a global perspective, resembling what the American philosopher John Rawls has claimed for the question of social justice at the domestic level. He developed this notion to explain how "*there can be a stable and just society whose free and equal citizens are deeply divided by conflicting and even incommensurable religious, philosophical, and moral doctrines.*"[7] John Rawls distinguishes "*comprehensive religious, philosophical, or moral doctrines*," such as Islam, Kantianism, Confucianism, and Marxism, from "*political conceptions of justice*," which address only the political structure of society defined, as far as possible, independent of any particular comprehensive doctrine. Under this perspective, adherents of different comprehensive doctrines should be able to reach an "overlapping consensus" on a political conception of justice. That is, different groups, countries, religious communities, and civilizations, even if they hold incompatible fundamental views on theology, metaphysics, human nature, and so on, could come to an agreement on certain norms that ought to govern human behavior. Each would have its own way of justifying these norms from its background conception.

In order not to overstate the normative claims of human rights, however, it has been noted that their normative scope is limited. Human rights, while constituting political and legal standards, do not entail a comprehensive guidance as to how to lead one's life as an individual or within one's community. Human rights are neither a "comprehensive doctrine" nor a comprehensive ethical code of conduct. They cannot compete with cultural and religious traditions, although they do exercise a critical effect on the interpretation and development of these traditions. Overlapping

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[7] Rawls, John. *Political Liberalism*. New York: Columbia University Press, 1993, p. 133.

consensus does not make human rights groundless, but it rather gives them multiple grounds.

Those who want to make ontological claims can do so with no need to convince or compel others to accept a particular, or even any, foundation for human rights. The idea of an "overlapping consensus" on human rights does not even require us to work for a worldwide ecumenical reconciliation between all religions and ideologies, because it prescribes that people are free to define their individual and communitarian identities relatively to each other, provided they respect universal equality in human dignity and rights. While Rawls pointed out that the guiding idea of political justice can be meaningfully appreciated from the perspectives of various philosophical or religious doctrines, we hold that the same situation is true for human rights. It is especially the idea of human dignity that can connect human rights with different religious, philosophical, and cultural traditions because the insight into the unalienable dignity of every human being constitutes both the basic ethical principle of human rights and a central element of the teachings of various religions and philosophies.

3. Complementary bottom-up and top-down validation for universal human rights

In the effort to find a justification for a cross-cultural overlapping consensus on universal human rights claims, we distinguished between two different, but complementary, approaches: a bottom-up validation for human rights, which focuses more on cultural issues, and a top-down validation for human rights, which pays more attention to political and economic issues. This study adopted both approaches in order to support its central claim concerning the possibility to uphold religious minority rights and freedom of religion and belief on a universal scale.

According to the bottom-up approach, the credibility and practical efficacy of national and international human rights standards is enhanced by an increase of their legitimacy in the widest possible range of cultural traditions. Therefore, the legitimacy of the human rights standards would be enhanced by their rooting in the various cultural traditions of the world. The implementation of the international human rights standards, according to Muslim legal scholar Abdullahi Ahmed An-

Naʼim, "*will improve if they can be shown to be the natural and legitimate evolution of the cultural tradition of the particular community.*"[8] However, since cultures are constantly changing and evolving internally, as well as through interaction with other cultures, it may be possible to influence the direction of that change and evolution through internal discourse about the fundamental values of the culture and the rationale for these values, or from outside through cross-cultural dialogue. The cross-cultural approach, therefore, seeks to explore the possibilities of cultural reinterpretation and reconstruction through internal cultural discourse and cross-cultural dialogue, as a means to enhance the universal legitimacy of human rights. Amartya Sen identified, on the one hand, those values that are dominantly favored in a society, and on the other hand, a different set of values that would emerge under specific circumstances. These circumstances occur when open discussion is allowed, when information about other societies becomes more freely available, and when disagreements with the established views can be expressed and defended without suppression and fear.[9]

Paying more attention to top-down dynamics, human rights scholars Jack Donnelly, Rhoda Howard, and Reza Afshari stressed that it is the "modernity" of human rights ideas and practices that deserves emphasis. Therefore, human rights ideas and practices did not arise from any deep Western cultural roots but rather emerged from the social, economic, and political transformations of modernity. As the present research claims, whatever the existing-problems of a society, everybody must deal with market economies and bureaucratic States, and whatever the religious, moral, legal, and political resources, everybody needs equal and inalienable universal human rights to protect themselves from those threats.[10] Therefore, the UDHR and other human rights covenants define what is needed to protect a life of dignity and equality in the modern State. Within this perspective, cultural diversity can even be encouraged, as long as the element of choice is retained and no one is compelled to be part of a particular cultural group. Group membership becomes a matter of private, voluntary choice; no one can be compelled to be a member of a group other than the legal State; anyone may reject

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[8] An-Naʼim Abdullahi Ahmed, "Religious Minorities Under Islamic Law and the Limits of Cultural Relativism." *Human Rights Quarterly*. 9.1 (1987), p. 3.

[9] Sen, Amartya. "Elements of a Theory of Human Rights." *Philosophy and Public Affairs* 32.4 (2004), p.320.

[10] Donnelly, Jack. "The Relative Universality of Human Rights." *Peace Research Abstracts Journal*. 44.5 (2007), p. 287. See also Afshari, Reza. *Human Rights in Iran: The Abuse of Cultural Relativism*. Philadelphia, PA: University of Pennsylvania Press, 2001, p. 10.

his religion; anyone may abandon his or her ancestral language and customs.[11] All persons must be treated equally regardless of gender, racial-ethnic, religious, or linguistic affiliation, and regardless of economic status or class, regardless of voluntary membership. A culture and a community based on systematic degradation must be challenged through internal cultural discourse and cross-cultural dialogue.

4. Cross cultural dialogical approach to human rights

We engaged the hermeneutical theories of German philosophers Hans-Georg Gadamer and Jürgen Habermas in order to develop the cross cultural dialogical approach to human rights that has been adopted in this study. For Gadamer, understanding a particular subject matter –in our case, universal human rights- occurs with the process of dialogue by which we come to share perspectives, or to fuse horizons.[12] For Habermas, this understanding occurs only when the dialogical process is just and fair. He seeks to ensure that the conditions for dialogue do not contain implicit biases that would distort communication.[13] Gadamer insists that dialogue –the discipline of constant inquiry and questioning- "guarantees truth." Therefore, there are real truths for Gadamer that can be revealed, but which we can only find through dialogue. Gadamer explains that "*to conduct a conversation means to allow oneself to be conducted by the subject matter to which the partners in the dialogue are oriented.*"[14] Conversation, according to Gadamer, is able to create genuine understanding through the fusion of horizons on a particular subject matter. When we converse with others, we converse about subject matters of shared interest. Most importantly, we do not treat our interlocutors as objects of inquiry. This is one of the main principles that have guided this research, especially in its data-collecting phase in the Islamic Republic of Iran.

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[11] Howard, Rhoda E. *Human Rights and the Search for Community*. Boulder: WestviewPress, 1995, p. 41.
[12] Gadamer, Hans-Georg. *Truth and Method*. New York: Crossroad, 1989.
[13] Habermas, Jürgen. *Toward a Rational Society: Student Protest, Science, and Politics*. Boston: Beacon Press, 1970.
[14] Gadamer, Hans-Georg. *Op. Cit.*, p. 367.

5. Rights of Religious Minorities and Freedom of Religion and Belief

Minority promotion and protection has been considered as an integral part of universal human rights, a primary example where international cooperation is required. Following the approach of scholar Lauri Hannikainen, minority rights have been regarded as a specific "sub-category" in the body of general human rights with the purpose of ensuring the de facto equality of minorities with the majority and/or the survival of minority groups. In fact, had minority rights been understood as a category separate from, and additional to, general human rights, this would have meant that persons belonging to minorities have more human rights than other persons. Actually, minority rights may contain supportive features, such as affirmative action or special protection to ensure de facto equality or even mild special rights to ensure the survival of a minority. However, since affirmative action and special rights may raise negative feelings towards minorities among the majority population, and they should be resorted to with caution, it is important to interpret all human rights provisions in a "minority-sensitive way ", in recognition of the interdependence of all human rights.[15]

As Gay McDougall, former UN independent expert on minority issues, has observed:

> Minority rights go beyond anti-discrimination to address the issues of those who may seek to promote and preserve their distinct identity. The opportunity to participate fully and effectively in all aspects of society, while preserving group identity, is essential to true equality and may require positive steps on the part of government. Minority rights […] are about recognizing that, owing to their minority status and distinct identity, some groups are disadvantaged and are at times targeted, and that these communities need special protection and empowerment. All States should seek to realize the goal of equality in diversity, in law and in fact.[16]

Freedom of religion and belief and rights of religious minorities have been considered the essential and complementary instruments for the protection of religious and belief minorities.

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[15] Hannikainen, Lauri. "Legal Nature of Minoritiy Rights as Part of Human Rights, Limitations, Derogations, Reservations, and Interpretative Statements" in Weller, Marc. Op. Cit., p. 31.
[16] McDougall, G. "Specific Groups and Individuals: Minorities: Report of the Independent Expert on Minority Issues" (UN Doc. E/CN.4/2006/74, 6 January 2006); also available at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/101/26/PDF/G0610126.pdf?OpenElement. accessed 10 October, 2012.

Four main sources have been described as the key elements of the principle of "freedom of religion and belief": Article 18 of the Universal Declaration of Human Rights (UDHR, 1948)[17]; Article 18 of the International Covenant on Civil and Political Rights (ICCPR, 1966)[18]; General Comment 22 of the United Nations Human Rights Committee considering Article 18 of the ICCPR (HRC, GC 22, 1993)[19], and the 1981 United Nation Declaration on the Elimination of Intolerance and Discrimination on the Basis of Religion or Belief (UN, 1981)[20].

Additional to these provisions, three main sources of minority rights have been presented: Article 27 of the ICCPR;[21] General Comment 23 of the Human Rights Committee on Article 27 (HRC, GC 23, 1994);[22] and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious Minorities (1992).[23]

A major stumbling point in addressing religious minority rights has been the lack of an agreed definition of both "religion" and "minority" in international law. Therefore, I took into consideration different theoretical contributions regarding the definition of "minority" and "religions," proposed by different scholars such as Capotorti, Deschênes, and Pentassuglia. Eventually, a religious or belief minority was defined as a group of human beings classified, among other things, by their religious belief, within the context of a larger society in which they are in a non-dominant position. The term minority was also referred to an individual member of such a group.

Minority rights are to be enjoyed by persons who "*belong to a group and who share in common a culture, a religion and/or a language*" (HRC, GC 23, para. 5.1). There are no other conditions on the enjoyment of these rights, not even citizenship or permanent residence. The Human Rights Committee has clarified that these rights are to be enjoyed equally by migrant workers or even visitors.

[17] Adopted 10 December 1948, GA Res. 217, UN Doc. A/810, 71.
[18] UN GA Res. 2200 (XXI) GAOR, 21st Session, Supp. 16 UKTS (1977).
[19] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 5, accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15
[20] GA Res. 36/55, 36 UN GAOR Supp (no 4) at 171 UN Doc A/36/51 1981.
[21] International Covenant on Civil and Political Rights. Available at http://www2.ohchr.org/english/law/ccpr.htm. Accessed March 18, 2012,
[22] Human Rights Committee, General Comment No. 23, Article 27 on The Rights of Minorities, 50th Session (1994), UN Doc. CCPR/C/2 I/Rev. l/Add.5, 1994, paras. 4 and 5.2., accessed 26 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument
[23] GA Res. 47/135 (Adopted 18th December 1992).

Moreover, the scope of freedom of religion or belief explicitly includes belief - whether theistic, non-theistic or atheistic. The Human Rights Committee (HRC) in General Comment No. 22 on Article 18 of the ICCPR indicated that "*the article protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The term belief and religion are to be broadly constructed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.*"[24] Furthermore, the Committee specifically condemned any tendency "*to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be subject of hostility by a predominant religious community.*"[25]

The Human Rights Committee, moreover, drew attention to the "fundamental character" of freedom of religion and belief that is reflected in the fact that "having", "adopting," or "changing" a religion or belief should not be subject to coercion and cannot be derogated from even in time of public emergency.[26] Manifesting religion or belief, instead, in times of public emergency may be subject to "*such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.*"[27] Nevertheless, no derogation should "*involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.*"[28] Limitations, in fact, impact the members of minorities as well as the majority within society. Even in those cases where having, adopting, or changing religion or belief are not in themselves subject to limitation, extensive limitations on manifestation can put such pressure on individuals and communities belonging to a minority religion or belief that might eventually impair their possibility to adopt or have that particular belief. On the other hand, if there is an environment conducive to the manifestation of religions and beliefs, there is more likelihood of individuals being informed about minority communities and their beliefs and therefore of possibly choosing to change religion or belief to join them.

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[24] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 35., accessed 27 March, 2012, http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15
[25] Ibidem.
[26] Human Rights Committee, General Comment No. 22, Article 18 on Freedom of Religion, 48th session (1993), UN Doc. HRI/GEN/1Rev.1, para. 1.
[27] International Covenant on Civil and Political Rights, Article 18, para. 3.
[28] Ivi, Article 4.1.

Among the final remarks, it is worth highlighting the need for recognition of "belief" minorities. A major limitation of minority rights compared to freedom of religion or belief protections should thus be acknowledged: minority rights, in fact, explicitly protect only religious minorities. It is not at all clear whether the protection given by minority rights encompasses "belief" communities as well or not. However, considering the lack of agreed definition of "religion" in international law and the clear decision to extend freedom of religion to thought, conscience and therefore belief, it has been assumed that minority rights protection should also stretch to belief where indeed there are communal aspects that call upon it.

Among the crucial implications of such recognition is the role that the State can play by restricting religion or belief rights entitlements only to specific "recognized" religions. This would reduce religion or belief rights to sheer privileges extendable only by State decree. The Human Rights Committee, however, has emphasized that "*The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria.*"[29] In General Comment 22, it is made clear that religion or belief should be broadly construed and not limited to traditional religions.[30] Hence, the emphasis on objective criteria is important in preventing States to deny the relevance of minority rights by just declaring that they have no minorities within their borders. Objective criteria should privilege self-identification as well as consider independent legal and policy analyses of the existence of groups, in the light of definitions such as the one adopted in this study. On the whole, the "existence" of minorities should not just rely on the question of political convenience for the States concerned.

6. The concrete life-histories of 18 members of religious and belief minorities living in the Islamic Republic of Iran.

In both freedom of religion or belief and minority rights, we observed the need for vigilance in relation to individual members and groups that are in a non-dominant position. Minority rights recognize the need for the survival of the group's characteristics. However, as we have seen in the case of the Islamic Republic of Iran,

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[29] Human Rights Committee, General Comment No. 23, para. 5.2.
[30] Human Rights Committee, General Comment No. 22, para. 2.

a State may be capable of purposefully compromising the long-term development and survival of religious communities while bestowing upon them some controlled cultural and religious freedoms in the short term. Such freedoms would be, at times, granted only under the forced agreement that they do not recruit members from amongst the majority population. In such a situation, therefore, the State protects the religious characteristics of the majority while infringing both minority rights and freedom of religion and belief standards.

As we observed at the end of Chapter 4, "continued development" of religious and belief minorities should not just be assessed on the group's internal and separate "development", but it also requires a healthy interaction with society at large. Minority rights, in fact, recognize that minorities should be able to effectively participate in society and in all matters concerning them. It is only through these provisions that, on the one hand, religious communities can thrive and achieve real equality, and, on the other hand, the whole of society can benefit from the interaction among its different, and nevertheless necessary, components.

As the 18 participants to this study have pointed out, most of the limitations to their religious and belief liberties derive from State regulations. Moreover, discrimination against their communities has diminished from the part of the Iranian society, and it has instead augmented from the part of the government. Therefore, I believe it is evident that restrictions on religious freedom and violation of the rights of religious and belief minorities cannot be ascribed to any inherent contradictions between the particular religious and cultural tradition of Iran and modern human rights norms. Rather, substantial violations of minority rights have been demonstrated to be a consequence of political and constitutional inadequacies and of an exclusive emphasis on forging nationhood on the basis of a single and exclusive religious identity rigidly defined by the State.

In conclusion, if the society evolves and becomes more open and willing to accept religious and belief diversity, the government cannot appeal to a particular religious or cultural tradition in order to impinge on religious rights and freedom of religion and belief. The bottom-up validation for universal minority rights seems to be empirically confirmed by the case study of this research; therefore, it is time for the top-down validation to find its way within the policies of the State.

Appendix

The Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.
(2) No one may be compelled to belong to an association.

Article 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
(2) Everyone has the right of equal access to public service in his country.
(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Bibliography

Human Rights Discourse: Universality and Cultural Relativism

_ Afshari, Reza. "An Essay on Islamic Cultural Relativism in the Discourse of Human Rights." *Human Rights Quarterly*. 16.2 (1994): 235-276.

_ Afshari, Reza. *Human Rights in Iran: The Abuse of Cultural Relativism*. Philadelphia, PA: University of Pennsylvania Press, 2001.

_ Alston, Philip, and James Crawford. *The Future of Un Human Rights Treaty Monitoring*. Cambridge: Cambridge University Press, 2000.

_ American Anthropological Association. "Statement on Human Rights." *American Anthropologist*. 49.4 (1947): 539-543.

_ American Anthropological Association. "Declaration on Anthropology and Human Rights." *Anthropology News*. 39.6 (1998): 9-9.

_ An-Na´im Abdullahi Ahmed, "Religious Minorities Under Islamic Law and the Limits of Cultural Relativism." *Human Rights Quarterly*. 9.1 (1987): 1-18.

_ An-Na´im Abdullahi Ahmed, "Islamic law, international relations, and human rights: challenge and response". *Cornell International Law Journal*, 20.2 (1987): 317-335.

_ An-Na´im Abdullahi Ahmed, "Human Rights in the Muslim World: Socio-political Conditions and Scriptural Imperatives." *Harvard Human Rights Journal.* 3 (1990): 13-52.

_ An-Na´im Abdullahi Ahmed, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*. Syracuse, N.Y: Syracuse University Press, 1990.

_ An-Na´im Abdullahi Ahmed, and Francis M. Deng. *Human Rights in Africa: Cross-cultural Perspectives*. Washington, D.C: The Brookings Institution, 1990

_ An-Na´im Abdullahi Ahmed, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. Philadelphia: University of Pennsylvania Press, 1992.

_ Aristotle. *Nicomachean Ethics*. Translated by Martin Ostwald. Indianapolis: Bobbs-Merrill, 1962.

_ Baderin, Mashood A. "Dialogue Among Civilisations As a Paradigm for Achieving Universalism in International Human Rights a Case Study with Islamic Law." *Asia Pacific Journal on Human Rights and the Law*. 2.2 (2001): 1-41.

_ Baderin, Mashood A. "Establishing Areas of Common Ground between Islamic Law and International Human Rights."*The International Journal of Human Rights*. 5.2 (2001): 72-113.

_ Baehr, P. R. *Human Rights: Universality in Practice*. New York, N.Y: St. Martin's Press, 1999.

_ Bayefsky, Anne F. "Cultural Sovereignty, Relativism, and International Human Rights: New Excuses for Old Strategies." *Ratio Juris*. 9.1 (1996): 42-59.

_ Bayefsky, Anne F. *The Un Human Rights Treaty System: Universality at the Crossroads*. Ardsley, NY: Transnational Publishers, 2001.

_ Beitz, Charles R. *Political Theory and International Relations*. Princeton, N.J: Princeton University Press, 1979.

_ Beitz, Charles R. "Human Rights As a Common Concern." *American Political Science Review*. 95.2 (2001): 269-282.

_ Benedict, Ruth. *Patterns of Culture*. Boston: Houghton Mifflin Co, 1934.

_ Benedict, Ruth. "Anthropology and the Abnormal." *The Journal of General Psychology*. 10.1 (1934): 59-82.

_ Berger, Peter L. *The Sacred Canopy: Elements of a Sociological Theory of Religion*. Garden City, N.Y: Doubleday, 1967.

_ Berting, J. *Human Rights in a Pluralist World: Individuals and Collectivities*. Westport, Conn: Meckler, 1990.

_ Bielefeldt, Heiner. "Muslim Voices in the Human Rights Debate." *Human Rights Quarterly*. 17.4 (1995): 587-617.

_ Bielefeldt, Heiner. "'Western' Versus 'Islamic' Human Rights Conceptions?: a Critique of Cultural Essentialism in the Discussion on Human Rights." *Political Theory*. 28.1 (2000): 90-121.

_ Bloch, Ernst. *Natural Law and Human Dignity*. Cambridge, Mass: MIT Press, 1986.

_ Boas, Franz. "The Mind of Primitive Man." *Journal of American Folklore*. 14.52 (1901): 1-11.

_ Boas, Franz. *The Mind of Primitive Man*. New York: The Macmillan company, 1938.

_ Bolling, John R. *Chronology of Woodrow Wilson: Together with His Most Notable Addresses, a Brief Description of the League of Nations, and the League of Nations Covenant*. New York: Frederick A. Stokes Co, 1927.

_ Boon, Vivienne. "Jurgen Habermas and Islamic Fundamentalism: on the Limits of Discourse Ethics." *Journal of Global Ethics*. 6.2 (2010): 153-166.

_ Brant, Irving. *The Bill of Rights*. New York: New American Library, 1967.

_ Brysk, Alison. *Human Rights and Private Wrongs: Constructing Global Civil Society*. New York: Routledge, 2005.

_ Burke, T. Patrick. *No Harm: Ethical Principles for a Free Market*. New York, N.Y: Paragon House, 1994.

_ Caney, Simon, and Peter Jones. *Human Rights and Global Diversity*. London: Portland, Or, 2001.

_ Cerna, Christina M. "Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Contexts." *Human Rights Quarterly*. 16.4 (1994): 740-752.

_ Churchill, Robert P. *Human Rights and Global Diversity*. Upper Saddle River, NJ: Pearson/Prentice Hall, 2006.

_ Condé, H. Victor. *A Handbook on International Human Rights Terminology*. Lincoln: University of Nebraska Press, 2004.

_ Corradetti, Claudio. *Relativism and Human Rights: A Theory of Pluralistic Universalism*. Dordrecht: Springer, 2009.

_ Demenchonok, Edward. "The Universal Concept of Human Rights As a Regulative Principle: Freedom Versus Paternalism." *American Journal of Economics and Sociology*. 68.1 (2009): 273-301.

_ Diemer, Alwin. *Philosophical Foundations of Human Rights*. Paris: Unesco, 1986.

_ Donnelly, Jack. "Human Rights As Natural Rights." *Human Rights Quarterly*. 4.3 (1982): 391-405.

_ Donnelly, Jack. "Human Rights and Human Dignity: an Analytic Critique of Non-Western Conceptions of Human Rights." *The American Political Science Review*. 76.2 (1982): 303-316.

_ Donnelly, Jack. "Cultural Relativism and Universal Human Rights." *Human Rights Quarterly*. 6.4 (1984): 400-419.

_ Donnelly, Jack, and Rhoda E. Howard-Hassmann. *International Handbook of Human Rights*. New York: Greenwood Press, 1987.

_ Donnelly, Jack. *Universal Human Rights in Theory and Practice*. Ithaca: Cornell University Press, 1989.

_ Donnelly, Jack. "The Relative Universality of Human Rights." *Peace Research Abstracts Journal*. 44.5 (2007): 281-306.

_ Donoho, Douglas L. "Relativism Versus Universalism in Human Rights: the Search for Meaningful Standards." *Stanford Journal of International Law*. 27.2 (1991): 345-391.

_ Dworkin, Ronald. *Taking Rights Seriously*. Cambridge: Harvard University Press, 1977.

_ Ebadi, Shirin. "Islam, Human Rights, and Iran." *Emory International Law Review*. 23.1 (2009): 13-24.

_ Evans, Malcolm D. *Blackstone's International Law Documents*. London: Blackstone Press, 1991.

_ Fathi, Nazila. "Iranian Clerics' Angling Stirs Worry on Absolute Rule". *New York Times*, September 25th, 2006, p12.

_ Fisk, Robert. "Robert Fisk's interview with Montazeri", *Indipendent*, February 21, 2000.

_ Forsythe, David P. *The Internationalization of Human Rights*. Lexington, Mass: Lexington Books, 1991.

_ Friedl, Erika. "Stories As Ethnographic Dilemma in Longitudinal Research." *Anthropology Humanism*. 29.1 (2004): 5-21.

_ Frohnen, Bruce P. "Multicultural rights? Natural law and the reconciliation of universal norms with particular cultures." *Catholic University Law Review*, 52.1 (2002): 39-80.

_ Frohnen, Bruce P., and Kenneth L. Grasso. *Rethinking Rights: Historical, Political, and Philosophical Perspectives*. Columbia: University of Missouri Press, 2009.

_ Gadamer, Hans-Georg. *Truth and Method*. New York: Crossroad, 1989.

_ Garraty, John A., and Robert A. McCaughey. *The American Nation*. New York: HarperCollins Publishers, 1991.

_ Geertz, Clifford. "Distinguished Lecture: Anti Anti-Relativism." *American Anthropologist*. 86.2 (1984): 263-278.

_ Glendon, Mary A. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House, 2001.

_ Griffin, James. "Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights." *Proceedings of the Aristotelian Society (hardback)*. 101.1 (2001): 1-28.

_ Griffin, James. *On Human Rights*. Oxford: Oxford University Press, 2008.

_ Grim, Brian J, and Becky Hsu. "Estimating the Global Muslim Population: Size and Distribution of the World's Muslim Population." *Interdisciplinary Journal of Research on Religion*. 7 (2011): 1-19.

_ Habermas, Jürgen, Sara Lennox, and Frank Lennox. "The Public Sphere: an Encyclopedia Article (1964)." *New German Critique*. (1974): 49-55.

_ Habermas, Jürgen. *Toward a Rational Society: Student Protest, Science, and Politics*. Boston: Beacon Press, 1970.

_ Habermas, Jürgen. "On Systematically Distorted Communication." *Inquiry* 13.3 (1970): 205–218.

_ Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, Mass: MIT Press, 1996.

_ Harrison, Jonathan. "Mackie's Moral 'scepticism'."*Philosophy*. 57.220 (1982): 173-191.

_ Hatch, Elvin. *Culture and Morality: The Relativity of Values in Anthropology*. New York: Columbia University Press, 1983.

_ Hatch, Elvin. "The Good Side of Relativism." *Journal of Anthropological Research*. 53.3 (1997): 371-381.

_ Herskovits, Melville J. *Cultural Relativism; Perspectives in Cultural Pluralism*. New York: Random House, 1972.

_ Hessler, Kristen. "Resolving Interpretive Conflicts in International Human Rights Law." *Journal of Political Philosophy*. 13.1 (2005): 29-52.

_ Hilderbrand, Robert C. *Dumbarton Oaks: The Origins of the United Nations and the Search for Postwar Security*. Chapel Hill: University of North Carolina Press, 1990.

_ Hobbes, Thomas. *Leviathan*. Edited by J. C. A. Gaskin Oxford: Oxford University Press, 1998.

_ Howard, Rhoda E, and Jack Donnelly. "Human Dignity, Human Rights, and Political Regimes." *The American Political Science Review*. 80.3 (1986).

_ Howard, Rhoda E. "Cultural Absolutism and the Nostalgia for Community." *Human Rights Quarterly*. 15.2 (1993): 315-338.

_ Howard, Rhoda E. *Human Rights and the Search for Community*. Boulder: WestviewPress, 1995.

_ Howard-Hassmann, Rhoda E. *Can Globalization Promote Human Rights?* University Park, Pa: Pennsylvania State University Press, 2010.

_ Hugo, Grotius. *On the Law of War and Peace*. Trans. By Francis W. Kelsey. Oxford: Oxford University Press, 1925.

_ Humphrey, John P. "The Memoirs of John P. Humphrey, the First Director of the United Nations Division of Human Rights." *Human Rights Quarterly*. 5.4 (1983): 387-439.

_ Humphrey, John P. *Human Rights & the United Nations: A Great Adventure*. Dobbs Ferry, N.Y: Transnational Publishers, 1984.

_ Huntington, Samuel P. "The Clash of Civilizations?" *Foreign Affairs New York*. 72.3 (1993).

_ Huntington, Samuel P. *The Clash of Civilizations and the Remaking of World Order*. New York: Simon & Schuster, 1996.

_ Idris, Sajjad. "Reflections on Mawdudi and Human Rights."*Muslim World*. 93 (2003): 547-561.

_ Ignatieff, Michael. *The Warrior's Honor.* New York: Henry Holt, 1997.

_ Ignatieff, Michael. *The Rights Revolution*. Toronto: House of Anansi Press, 2000.

_ Ignatieff, Michael, and Amy Gutmann. *Human Rights As Politics and Idolatry*. Princeton, N.J: Princeton University Press, 2001.

_ Ignatieff, Michael. "Iranian Lessons". *New York Times Magazine*, 7/17/2005, p46.

_ Ishay, Micheline. *The History of Human Rights: From Ancient Times to the Globalization Era.* Berkeley: University of California Press, 2004.

_ James, Stephen A. *Universal Human Rights: Origins and Development*. New York: LFB Scholarly Pub, 2007.

_ Kadivar, Mohsen. "Freedom of Thought and Religion". *Current History*, Vol. 104, Issue 678, (2005) p 43.

_ Kamali, Mohammad H. *Freedom, Equality, and Justice in Islam*. Cambridge: Islamic Texts Society, 2002.

_ Kennedy, David**.** "The international human rights movement: part of the problem?" *Harvard Human Rights Journal*, 15 (2002): 101-125.

_ Knorpp, William M. "What Relativism Isn't." *Philosophy*. 73.284 (1998): 277-300.

_ Langley, Winston. *Encyclopedia of Human Rights Issues Since 1945*. Westport, Conn: Greenwood Press, 1999.

_ Lauren, Paul G. *The Evolution of International Human Rights: Visions Seen*. Philadelphia: University of Pennsylvania Press, 2003.

_ Li, Xiaorong. *Ethics, Human Rights and Culture: Beyond Relativism and Universalism*. Basingstoke England: Palgrave Macmillan, 2006.

_ Little, David, John Kelsay, and Abdulaziz A. Sachedina. *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*. Columbia, S.C: University of South Carolina Press, 1988.

_ Littman, David G. "Human Rights and Human Wrongs*", National Review Online*. Jan. 19, 2003. Accessible at http://www.nationalreview.com/articles/205577/human-rights-and-human-wrongs/david-g-littman

_ Locke, John. *The Second Treatise of Government*. Edited by Thomas P. Peardon New York: Liberal Arts Press, 1952.

_ Lupu, Cristian. "Tolerating Nonliberal States: Human Rights As a Grounding Principle?" *Journal of Global Ethics*. 3.2 (2007): 223-235.

_ Marcus, Aurelius. *Meditations of Marcus Aurelius.* Edited by Meric Casaubon. New York: Heritage Press, 1956.

_ Maritain, Jacques. *The Rights of Man and Natural Law*. London, 1945.

_ Maritain, Jacques. *Man and the State*. Chicago: University of Chicago Press, 1951.

_ Marx, Karl. "On the Jewish Question" in *The Marx-Engels Reader*, ed. Robert C. Tucker, 2nd ed., New York, Norton, 1978.

_ Mawdudi, Abul Ala. *Human Rights in Islam*. London: Islam Foundation, 1976.

_ Mawdudi, Abul Ala, *Islamic Law and Constitution.* Lahore: Islamic Publications, 11th ed., 1992.

_ Mayer, Ann E. "Universal Versus Islamic Human Rights: a Clash of Cultures or a Clash with a Construct?" *Michigan Journal of International Law*. 15.2 (1994): 307-404.

_ Mayer, Ann E. "Islamic Rights or Human Rights: an Iranian Dilemma." *Iranian Studies*. 29.4 (1996): 269-296.

_ Mayer, Ann E. *Islam and Human Rights: Tradition and Politics*. Boulder, Colo: Westview Press, 1999.

_ Mayer, Ann E. "The Universality of Human Rights: Lessons from the Islamic Republic of Iran." *Social Research*. 67.2 (2000): 519-536.

_ Meijer, Martha. *Dealing with Human Rights: Asian and Western Views on the Value of Human Rights*. Bloomfield, CT: Kumarian Press, 2001.

_ Mill, John S., and Edward Alexander. *On Liberty*. Peterborough, Ont: Broadview Press, 1999.

_ Miller, David H. *The Drafting of the Covenant. Vol. II.* New York: G.P. Putnam's Sons, 1928.

_ Morsink, Johannes. "The Philosophy of the Universal Declaration." *Human Rights Quarterly*. 6.3 (1984): 309-334.

_ Morsink, Johannes. "World War Two and the Universal Declaration." *Human Rights Quarterly*. 15.2 (1993): 357-405.

_ Morsink, Johannes. *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*. Philadelphia: University of Pennsylvania Press, 1999.

_ Moyn, Samuel. *The Last Utopia: Human Rights in History*. Cambridge, Mass: Belknap Press of Harvard University Press, 2010.

_ Mullender, Richard. "Human Rights: Universalism and Cultural Relativism." *Critical Review of International Social and Political Philosophy*. 6.3 (2003): 70-103.

_ Mutua, Makau Wa , "The Ideology of Human Rights." *Virginia Journal of International Law*. 36.3 (1996): 589-658.

_ Nagengast, Carole. "Women, Minorities, and Indigenous Peoples: Universalism and Cultural Relativity." *Journal of Anthropological Research*. 53.3 (1997): 349-369.

_ Nardin, Terry. "The Problem of Relativism in International Ethics." *Millennium - Journal of International Studies*. 18.2 (1989): 149-161.

_ Nawawī, ʻIzz -D. Ibrāhīm, and Denys Johnson-Davies. *An-nawawī's Forty Hadith*. Damascus, Syria: Holy Koran Pub. House, 1977.

_ Nussbaum, Martha C. "Human Functioning and Social Justice: in Defense of Aristotelian Essentialism." *Political Theory*. 20.2 (1992): 202-246.

_ Nussbaum, Martha C. "Skepticism About Practical Reason in Literature and the Law." *Harvard Law Review*. 107.3 (1994): 714-744.

_ Nussbaum, Martha C. "Capabilities and Human Rights." *Fordham Law Review*. 66.2 (1997): 273.

_ Office of the High Commissioner for Human Rights: http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

_ Oh, Irene. *The Rights of God: Islam, Human Rights, and Comparative Ethics*. Washington, D.C: Georgetown University Press, 2007.

_ Oh, Irene. "Approaching Islam: Comparative Ethics Through Human Rights." *Journal of Religious Ethics*. 36.3 (2008): 405-423.

_ O'Sullivan, Declan. "The History of Human Rights Across the Regions: Universalism Vs Cultural Relativism." *International Journal of Human Rights*. 2.3 (1998): 22-48.

_ Paine, Thomas, *The Rights of Man*. New York: Heritage Press, 1961.

_ Panikkar, Raimon. "Is the Notion of Human Rights a Western Concept?" *Diogenes*. 30.120 (1982): 75-102.

_ Peetush, Ashwani K. "Cultural Diversity, Non-Western Communities, and Human Rights." *The Philosophical Forum*. 34.1 (2003): 1-19.

_ Penna, David R., and Patricia J. Campbell. "Human Rights and Culture: Beyond Universality and Relativism." *Third World Quarterly*. 19.1 (1998): 7-27.

_ Perry, Michael J. "Are Human Rights Universal? the Relativist Challenge and Related Matters." *Human Rights Quarterly*. 19.3 (1997): 461-509.

_ Perry, Michael J. *The Idea of Human Rights: Four Inquiries*. New York: Oxford University Press, 2000.

_ Peterson, Richard T. "Human Rights: Historical Learning in the Shadow of Violence." *American Journal of Economics and Sociology*. 68.1 (2009): 253-272.

_ Pilkington, James. *The Doctrine of Equality of Rank and Condition Examined and Supported on the Authority of the New Testament and on the Principles of Reason and Benevolence*. London: Printed for J. Johnson, 1795.

_ Plato. *Dialogues*. Translated by Benjamin Jowett. Oxford: Clarendon Press, 1953.

_ Plato. *The Republic*. Edited by G. R. F. Ferrari. Translated by Tom Griffith. Cambridge: Cambridge University Press, 2000.

_ Podell, Janet, and Steven Anzovin. *Speeches of the American Presidents*. Bronx, NY: H.W. Wilson, 2001.

_ Pollis, Adamantia, and Peter Schwab. *Human Rights: Cultural and Ideological Perspectives*. New York: Praeger, 1979.

_ Poore, Benjamin P. *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States, Vol. 2*. Washington: Govt. Print. Off, 1877.

_ Preis, Ann-Belinda S. "Human Rights As Cultural Practice: an Anthropological Critique." *Human Rights Quarterly*. 18.2 (1996): 286-315.

_ Pufendorf, Samuel, Freiherr von. *De jure naturae et gentium*. Translated into English by C. H. and W. A. Oldfather. *Of the Law of Nature and Nations*. Oxford: Oxford University Press, 1925.

_ Qutb, Sayyid. *Social Justice in Islam*. 1963. Translated by John B. Hardie. Oneonta, N.Y.: Islamic Publications International, 2000.

_ Rawls, John. *A Theory of Justice.* Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1971.

_ Rawls, John. "The Idea of an Overlapping Consensus." *Oxford Journal of Legal Studies.* 7.1 (1987): 1-25.

_ Rawls, John. "The Priority of Right and Ideas of the Good." *Philosophy & Public Affairs.* 17.4 (1988): 251-276.

_ Rawls, John. *Political Liberalism.* New York: Columbia University Press, 1993.

_ Rawls, John. *The Law of Peoples.* Mass: Harvard University Press, 1999.

_ Reddy, N. S. "Cultural Diversity and Common Rationality: the Riddle of Relativism Vs Universalism." *The Eastern Anthropologist.* 61.1 (2008): 1.

_ Reidy, David A., and M N. S. Sellers. *Universal Human Rights: Moral Order in a Divided World.* Lanham, Md: Rowman & Littlefield Publishers, 2005.

_ Renteln, Alison D. "The Unanswered Challenge of Relativism and the Consequences for Human Rights."*Human Rights Quarterly.* 7.4 (1985): 514-540.

_ Renteln, Alison D. "Relativism and the Search for Human Rights." *American Anthropologist.* 90.1 (1988): 56-72.

_ Renteln, Alison D. *International Human Rights: Universalism Versus Relativism.* Newbury Park: Sage Publications, 1990.

_ Rorty, Richard. "Human Rights, Rationality, and Sentimentality", *Yale Review*, 81:4 (1993): 1-20.

_ Rosenfeld, Michael. "Can Human Rights Bridge the Gap between Universalism and Cultural Relativism? A Pluralist Assessment Based on the Rights of Minorities." *Peace Research Abstracts.* 39.2 (2002): 155-306.

_ Sachedina Abdulaziz A. "The Clash of Universalisms: Religious and Secular in Human Rights." *Hedgehog Review.* 9.3 (2007): 49-62.

_ Sachedina, Abdulaziz A. *Islam and the Challenge of Human Rights.* Oxford: Oxford University Press, 2009.

_ Said, Edward W. *Orientalism.* New York: Vintage Books, 1978.

_ Sen, Amartya. "Universal Truths: Human Rights and the Westernizing Illusion." *Harvard International Review.* 20.3 (1998): 40-43.

_ Sen, Amartya. "Democracy As a Universal Value." *Journal of Democracy.* 10.3 (1999): 3-17.

_ Sen, Amartya. *Development As Freedom.* New York: Anchor Books, 2000.

_ Sen, Amartya. "Elements of a Theory of Human Rights." *Philosophy and Public Affairs* 32.4 (2004): 315–56.

_ Sharma, Arvind. *Are Human Rights Western?: A Contribution to the Dialogue of Civilizations*. New Delhi: Oxford University Press, 2006.

_ Shestack, Jerome J. "The Philosophic Foundations of Human Rights." *Human Rights Quarterly*. 20.2 (1998): 201-234.

_ Singer, Marcus G. *The Ideal of a Rational Morality: Philosophical Compositions*. Oxford: Clarendon Press, 2002.

_ Symonides, Janusz. *Human Rights: Concept and Standards*. Aldershot, Hants, England: Ashgate, 2000.

_ Smith, Adam, and Knud Haakonssen. *The Theory of Moral Sentiments*. Cambridge, U.K: Cambridge University Press, 2002.

_ Smith, Rhona K. M, and Christien . Anker. *The Essentials of Human Rights*. London: Hodder Arnold, 2005.

_ Soroush, Abdolkarim, *Reason, Freedom, & Democracy in Islam: Essential Writings of Abdolkarim Soroush*. Edited by Mahmoud Sadri, and Ahmad Sadri. New York, N.Y: Oxford University Press, 2000.

_ Spence, Edward H. "Positive Rights and the Cosmopolitan Community: a Rights-Centered Foundation for Global Ethics." *Journal of Global Ethics*. 3.2 (2007): 181-202.

_ Steiner, Henry J, Philip Alston, and Ryan Goodman. *International Human Rights in Context: Law, Politics, Morals : Text and Materials*. Oxford, UK: Oxford University Press, 2008.

_ Stubbs, William. *Select Charters*. Oxford: Clarendon Press, 1921.

_ Sweet, William. *Philosophical Theory and the Universal Declaration of Human Rights*. Ottawa: University of Ottawa Press, 2003.

_ Tābandeh, Sulṭān H. *A Muslim Commentary on the Universal Declaration of Human Rights*. Guildford: F. J. Goulding, 1970.

_ Taylor, Charles. "A World Consensus on Human Rights?"*Dissent*. 43.3 (1996): 15-21.

_ Talbott, W. J. *Which Rights Should Be Universal?* New York: Oxford University Press, 2005**.**

_ Talbott, W. J. *Human Rights and Human Well-Being*. New York: Oxford University Press, 2010.

_ Tehran Kiyan in Persian, Interview with Abdolkarim Soroush, "Religion, Tolerance, and Violence," no. 45, item 4, Feb.-Mar. 1999, FBIS Translated Text.

_ Téson, Fernando R. "International Human Rights and Cultural Relativism." *Virginia Journal of International Law.* 254 (1985): 869-898.

_ Thomas Aquinas. *Summa Theologiae*. Taurini: Marietti, 1952.

_ Tierney, Brian. "Natural Law and Natural Rights: Old Problems and Recent Approaches." *The Review of Politics*. 64.3 (2002).

_ Tilley, John J. "Cultural Relativism, Universalism, and the Burden of Proof." *Millennium - Journal of International Studies*. 27.2 (1998): 275-297.

_ Tilley, John J. "Moral Arguments for Cultural Relativism." *Netherlands Quarterly of Human Rights*. 17.1 (1999): 31-41.

_ Tilley, John J. "Cultural Relativism." *Human Rights Quarterly*. 22.2 (2000): 501-547.

_ Tolley, Howard. *The U.N. Commission on Human Rights*. Boulder: Westview Press, 1987.

_ UN Secretary-General. *Report of the Secretary General on the Situation of Human Rights in the Islamic Republic of Iran. 71*. U.N. Doc. A/63/458 (Oct. 1. *2008).*

_ UNESCO, *Human Rights, Comments and Interpretations*. London: A. Wingate, 1949.

_ Vichniac, Isabelle. "La Commission internationale de juristes denonce un projet de 'declaration des droits de l'homme en Islam,'" *Le Monde,* 13 February 1992.

_ Vincent, R J. *Human Rights and International Relations*. Cambridge [Cambridgeshire: Cambridge University Press, 1986.

_ Waldron, Jeremy. "Symposium in Celebration of the Fiftieth Anniversary of the Universal Declaration of Human Rights - How to Argue for a Universal Claim." *Columbia Human Rights Law Review*. 30.2 (1999): 305.

_ Walters, Gregory J. *Human Rights in Theory and Practice: A Selected and Annotated Bibliography*. Metuchen, N.J: Scarecrow Press, 1995.

_ Waltz, Susan. "Universal Human Rights: The Contribution of Muslim States." *Human Rights Quarterly* 26.4 (2004): 799–844.

_ Weissbrodt, David S. *Selected International Human Rights Instruments and Bibliography for Research on International Human Rights*. Newark, NJ: LexisNexis, 2009.

_ Woodiwiss, Anthony. "Human Rights and the Challenge of Cosmopolitanism." *Theory, Culture & Society*. 19 (2002): 139-155.

_ Yaghmaian, Behzad. *Social Change in Iran: An Eyewitness Account of Dissent, Defiance, and New Movements for Rights*. Albany: State University of New York Press, 2002.

_ Yasuaki, Onuma. "In Quest of Intercivilizational Human Rights: "Universal" Vs. "Relative" Human Rights Viewed from an Asian Perspective." *Asia Pacific Journal on Human Rights and the Law*. 1.1 (2000): 53-88.

_ Zechenter, Elizabeth M. "In the Name of Culture: Cultural Relativism and the Abuse of the Individual." *Journal of Anthropological Research*. 53.3 (1997): 319-347.

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_ Abdel, Haleem M. A. *The Qur'an*. New York: Oxford University Press, 2005.

_ Abdullah, Yusuf Ali. *The Holy Quran: Text, Translation & Commentary*. Lahore: Sh. M. Ashraf, 1983.

_ Amor, Abdelfattah. "Special Rapporteur of the Commission on Human Rights, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Report Relating to Visit to Iran." U.N. Doc. E/CN.4/1996/95/Add.2 (9 Feb. 1996). Accessible at http://www1.umn.edu/humanrts/commission/country52/95-add2.htm

_ Baldwin, Clive, Chris Chapman, and Zoë Gray. *Minority Rights: The Key to Conflict Prevention*. London: Minority Rights Group International, 2007.

_ Capotorti, Francesco. *Study on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities*, UN Doc. E/CN.4/Sub.2/384/Rev.1, 1979.

_ Capotorti, Francesco. *Study on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities*. New York: United Nations, 1991.

_ Capotorti, Francesco. "Il regime delle minoranze nel sistema delle Nazioni Unite e secondo l'art. 27 del Patto sui diritti civili e politici", *Rivista internazionale dei diritti dell'uomo*, 1992, pp. 107-108.

_ Ebadi, Shirin. *History and Documentation of Human Rights in Iran*. New York: Bibliotheca Persica Press, 2000.

_ Falk, Richard A. *Human Rights and State Sovereignty*. New York: Holmes & Meier Publishers, 1981.

_ Fottrell, Deirdre, and Bill Bowring. *Minority and Group Rights in the New Millennium*. The Hague: M. Nijhoff Publishers, 1999.

_ Frank, Richard M. *Early Islamic Theology: The Mu'tazilites and Al-Ash'arī*. Aldershot: Ashgate Variorum, 2007.

_ Geoff, Gilbert. "Religious Minorities and Their Rights: a Problem of Approach." *International Journal on Minority & Group Rights*. 5.2 (1997).

_ Ghanea, Nazila. "Religious or Minority? Examining the Realisation of International Standards in Relation to Religious Minorities in the Middle East." *Religion, State and Society*. 36.3 (2008): 303-325.

_ Ghanea-Hercock, Nazila. *The Challenge of Religious Discrimination at the Dawn of the New Millennium*. Leiden: Martinus Nijhoff Publishers, 2003.

_ Ghanea-Hercock, Nazila. *Ethnic and Religious Groups in the Islamic Republic of Iran*, U.N. Doc. E/CN.4/Sub.2/AC.5/2003/WP.8 (5 May 2003).

_ Gurr, Ted R. *Peoples Versus States: Minorities at Risk in the New Century*. Washington, D.C: United States Institute of Peace Press, 2000.

_ Hashemi, Kamran. "The Right of Minorities to Identity and the Challenge of Non-discrimination: A Study on the Effects of Traditional Muslims' *Dhimmah* on Current State Practices." *International Journal on Minority and Group Rights*, 13.1 (2006): 1-25.

_ Hashemi, Kamran. *Religious Legal Traditions, International Human Rights Law and Muslim States*. Leiden: Martinus Nijhoff Publishers, 2008.

_ Henrard, Kristin. *Devising an Adequate System of Minority Protection: Individual Human Rights, Minority Rights, and the Right to Self-Determination*. The Hague: M. Nijhoff, 2000.

_ Human Rights Watch, "Iran, Religious and Ethnic Minorities: Discrimination in Law and Practice", Vol. 9, No. 7, Sept. 1997.

_ Jackson, Preece J. *Minority Rights: Between Diversity and Community*. Cambridge, UK: Polity Press, 2005.

_ Kymlicka, Will. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Clarendon Press, 1995.

_ Kymlicka, Will. *The Rights of Minority Cultures*. Oxford: Oxford University Press, 1995.

_ Kymlicka, Will. "The Good, the Bad, and the Intolerable: Minority Group Rights." *Dissent*. 43.3 (1996): 22-30.

_ Kymlicka, Will. *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press, 2007.

_ Kymlicka, Will. "Categorizing Groups, Categorizing States: Theorizing Minority Rights in a World of Deep Diversity." *Ethics & International Affairs*. 23.4 (2009).

_ Krishnaswami, Arcot. *Study of Discrimination in the Matter of Religious Rights and Practices*. New York: United Nations, 1960.

_ Letschert, Rianne M. *The Impact of Minority Rights Mechanisms*. The Hague: T.M.C. Asser, 2005.

_ May, Stephen, Tariq Modood, and Judith Squires. *Ethnicity, Nationalism and Minority Rights*. Cambrige, UK: Cambridge University Press, 2004.

_ May, Stephen. *Language and Minority Rights: Ethnicity, Nationalism and the Politics of Language*. New York: Routledge, 2008.

_ Minority Rights Group, (ed.). *World Directory of Minorities*. London: Minority Rights Group, 1997.

_ Nazyla, Ganea. *Ethnic and Religious Groups in the Islamic Republic of Iran: Policy Suggestions for the Integration of Minorities Through Participation in Public Life*. E/CN.4/Sub.2/AC.5/2003/WP.8. 5 May 2003.

_ Packer, John, and Kristian Myntti. *The Protection of Ethnic and Linguistic Minorities in Europe*. Turko/Åbo, Finland: Institute for Human Rights, Åbo Akademi University, 1993.

_ Pentassuglia, Gaetano. *Defining "Minority" in International Law: A Critical Appraisal*. Rovaniemi: Lapland's University Press, 2000.

_ Rahami, Mohsen. "Islamic Restorative Traditions and Their Reflections in the Post Revolutionary Criminal Justice System of Iran." *European Journal of Crime, Criminal Law and Criminal Justice*. 15.2 (2007): 227-248.

_ Rehman, Javaid. "Accommodating Religious Identities in an Islamic State: International Law, Freedom of Religion and the Rights of Religious Minorities." *International Journal on Minority and Group Rights*. 7.2 (2000): 139-165.

_ Roach, Steven C. *Cultural Autonomy, Minority Rights, and Globalization*. Burlington, VT: Ashgate, 2005.

_ Rodinson, Maxime. "The Notion of Minority in Islam" in Gérard, Chaliand. *Minority Peoples in the Age of Nation-States*. London: Pluto Press, 1989.

_ Sachedina, Abdulaziz A. "Freedom of Conscience and Religion in the Qur'an" in Little, David, John Kelsay, and Abdulaziz A. Sachedina. *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*. Columbia, S.C: University of South Carolina Press, 1988.

_ Sanei, Faraz. *Codifying Repression: An Assessment of Iran's New Penal Code*. New York, N.Y.: Human Rights Watch, 2012.

_ Schimmel, Annemarie, and Burzine K. Waghmar. *The Empire of the Great Mughals: History, Art and Culture*. London: Reaktion Books, 2004.

_ Segesvary, Victor. "Group Rights: the Definition of Group Rights in the Contemporary Legal Debate Based on Socio-Cultural Analysis." *International Journal on Minority and Group Rights*. 3.2 (1995): 89-107.

_ Seyed Mohammad Ghari Fatemi, "Nationality or Citizenship? A Normative Appraisal of International Law, Shi'i Fiqh, and the Iranian Legal System," in *Modif University, Collected Papers of the International Conference on Human Rights and Dialogue of Civilization*. Qom-Iran: Modif University Publications Institute, May 2001.

_ Shelton, Dinah. *Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System*. Oxford [England: Oxford University Press, 2000.

_ Sigler, Jay A. *Minority Rights: A Comparative Analysis*. Westport, Conn: Greenwood Press, 1983.

_ Taha, Mahmud Muhammad. *The Second Message of Islam*. Syracuse, N.Y: Syracuse University Press, 1987.

_ Thornberry, Patrick. *International Law and the Rights of Minorities*. Oxford [England: Clarendon Press, 1991

_ UN Sub-Commission on the Promotion and Protection of Human Rights, Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities : report/submitted by Asbjorn Eide. 11 August 1993, E/CN.4/Sub.2/1993/34/Add.4 Available at: http://www.unhcr.org/refworld/docid/3b00efc528.html [accessed 27 March 2012]

_ Vasalou, Sophia. *Moral Agents and Their Deserts: The Character of Mu'tazilite Ethics*. Princeton: Princeton University Press, 2008.

_ Walzer, Michael. *Thick and Thin: Moral Argument at Home and Abroad*. Notre Dame: University of Notre Dame Press, 1994.

_ Walzer, Michael. "States and Minorities," in Fried, Charles, and Ann M. A. Dummett. *Minorities: Community and Identity : Report of the Dahlem Workshop on Minorities : Community and Identity, Berlin 1982, Nov. 28-Dec. 3*. Berlin: Springer-Verlag, 1983.

_ Walzer, Michael. *On Toleration*. New Haven: Yale University Press, 1997.

_ Wehr, Hans, and J M. Cowan. *A Dictionary of Modern Written Arabic*. Ithaca, N.Y: Spoken Language Services, 1976.

_ Weller, Marc. *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, 2007.

_ Whitaker, Ben. *Minorities, a Question of Human Rights?* Oxford: Pergamon Press, 1984.

Iran Religious Minorities

_ Abrahamian, Ervand. *Khomeinism: Essays on the Islamic Republic*. London and New York: I.B. Tauris, 1993.

_ Abrahamian, Ervand. *Tortured Confessions: Prisons and Public Recantations in Modern Iran*. Berkeley: University of California Press, 1999.

_ Ahmadi, Hamid. "Unity Within Diversity: Foundations and Dynamics of National Identity in Iran." *Middle East Critique*. 14.1 (2005): 127-147.

_ Akhavi, Shahrough. *Religion and Politics in Contemporary Iran: Clergy-state Relations in the Pahlavī Period*. Albany: State University of New York Press, 1980.
_ Algar, Hamid. *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period*. Berkeley: University of California Press, 1969.

_ Amanat, Abbas. *Resurrection and Renewal: The Making of the Babi Movement in Iran, 1844-1850*. Ithaca: Cornell University Press, 1989.

_ Amanat, Mehrdad. *Jewish Identities in Iran: Resistance and Conversion to Islam and the Baha'i Faith*. London: I.B. Tauris, 2011.

_ Amurian, Andre and M. Kasheff. "Armenians of Modern Iran," *Encyclopaedia Iranica*, ed. Ehsan Yarshater. London & New York: Routledge & Kegan Paul, 1978, pp. 478-483.

_ Arasteh, A Reza. *Education and Social Awakening in Iran, 1850-1968*. Leiden: E.J. Brill, 1969.

_ Atkin, Muriel. *Russia and Iran, 1780-1828*. Minneapolis: University of Minnesota Press, 1980.

_ Aubin, Eugène. *La Perse d'aujourd'hui: Iran, Mésopotamie*. Paris: Colin, 1908.

_ Baha'i International Community. "The Situation of the Baha'is in Iran." Accessible at http://info.bahai.org/persecution_iran.html.

_ Bailey, Betty J., and J. M. Bailey. *Who Are the Christians in the Middle East?* Grand Rapids, Mich: W.B. Eerdmans, 2003.

_ Bayat, Kaveh. "The Ethnic Question in Iran." *Middle East Report*. (2005): 42-45.

_ Bayat, Mangol. *Iran's First Revolution: Shi'ism and the Constitutional Revolution of 1905-1909*. New York: Oxford University Press, 1991.

_ Balfour, James M. *Recent Happenings in Persia*. Edinburgh: W. Blackwood and Sons, 1922.

_ Berberian, Houri. *Armenians and the Iranian Constitutional Revolution of 1905-1911: "The Love for Freedom Has No Fatherland"*. Boulder, Colo: Westview Press, 2001.

_ Berberian, Houri. "Traversing Boundaries and Selves: Iranian-Armenian Identities During the Iranian Constitutional Revolution." *Comparative Studies of South Asia, Africa and the Middle East.* 25.2 (2005): 279-296.

_ Berberian, Houri. "History, Memory and Iranian-Armenian Memoirs of the Iranian Constitutional Revolution." *Critique: Critical Middle Eastern Studies.* 17.3 (2008): 261-292.

_ Berry, Adam. "The Baha'i Faith and Its Relationship to Islam, Christianity, and Judaism: a Brief History." *International Social Science Review.* 79 (2004).

_ Beth-Hillel, David. *Unknown Jews in Unknown Lands*. New York: Ktav Pub. House, 1973.

_ Boyce, Mary. "On the Zoroastrian Temple Cult of Fire."*Journal of the American Oriental Society*. 95.3 (1975).

_ Boyce, Mary. *Zoroastrians, Their Religious Beliefs and Practices*. London: Routledge & Kegan Paul, 1979.

_ Boyce, Mary. "The Zoroastrians of Iran: Over 3000 Years of Faith." *Asian Affairs.* 16.3 (1985): 243-253.

_ Boyle, Kevin, and Juliet Sheen. *Freedom of Religion and Belief: A World Report*. London: Routledge, 1997.

_ Bournoutian, George. "The Armenian Community of Isfahan in the Seventeenth Century." *Armenian Review*. 24. 4 (Winter 1971).

_ Bournoutian, George A. *Eastern Armenia in the Last Decades of Persian Rule, 1807-1828: A Political and Socioeconomic Study of the Khanate of Erevan on the Eve of the Russian Conquest*. Malibu, Calif: Undena Publications, 1982.

_ Bournoutian, George A. *A History of the Armenian People. Vol. 2*. Costa Mesa, Calif: Mazda, 1994. Pars Times online, Accessible at http://www.parstimes.com/history/armenians.html

_ Bournoutian, George A. *A History of the Armenian People*. Costa Mesa, Calif: Mazda Publishers, 1994.

_ Bradley, John R. *"*Iran Ethnic Tinderbox*", The Washington Quarterly*. 30.1 (winter 2006/2007): 181–190.

_ Browne, G. Edward, and 'Ali K. T. T. Muhammad. *The Press and Poetry of Modern Persia: Partly Based on the Manuscript Work of Mirza Muhammad Alí Khan "Tarbivat" of Tabriz*. Cambridge: University Press, 1914.

_ Brown, G. Edward. *A Year Amongst the Persians*. London: A. and C. Black, 1893, reprint New York: Hippocrene Books, 1984.

_ Bulliet, Richard W. *Conversion to Islam in the Medieval Period: An Essay in Quantitative History*. Cambridge: Harvard University Press, 1979.

_ Chabot, Jean-Baptiste. *Synodicon Orientale*. Paris: Imprimerie nationale, 1902.

_ Chaquèri, Cosroe. *The Armenians of Iran: The Paradoxical Role of a Minority in a Dominant Culture : Articles and Documents*. Cambridge, Mass: Distributed for the Center for Middle Eastern Studies of Harvard University by Harvard University Press, 1998.

_ Choksy, Jamsheed K. "Zoroastrians in Muslim Iran: Selected Problems of Coexistence and Interaction During the Early Medieval Period." *Iranian Studies*. 20.1 (1987): 17-30.

_ Choksy, Jamsheed K. "Conflict, Coexistence, and Cooperation: Muslims and Zoroastrians in Eastern Iran During the Medieval Period." *The Muslim World*. 80 (1990): 213-233.

_ Choksy, Jamsheed K. *Conflict and Cooperation: Zoroastrian Subalterns and Muslim Elites in Medieval Iranian Society*. New York: Columbia University Press, 1997.

_ Choksy, Jamsheed K. "Despite Shahs and Mollas: Minority Sociopolitics in Premodern and Modern Iran." *Journal of Asian History*. 40.2 (2006).

_ Cohen, Avraham. "Iranian Jewry and the Educational Endeavors of the Alliance Israélite Universelle." *Jewish Social Studies*. 48.1 (1986): 15-44.

_ Cole, Juan. "Bahai Faith or Bahaism." *Enciclopedia Iranica*, vol. III.

_ Cole, Juan R. I. "Iranian Millenarianism and Democratic Thought in the 19th Century." *International Journal of Middle East Studies*. 24.1 (1992): 1-26.

_ Cole, Juan R. *Modernity and the Millennium: The Genesis of the Baha'i Faith in the Nineteenth-Century Middle East*. New York: Columbia University Press, 1998.

_ Confino, Albert. *L'action De L'alliance Israélite En Perse*. Alger: Impr. Charras, n.d.

_ Cooper, Roger. *The Baha'is of Iran*. London: Minority Rights Group, 1982.

_ Cottam, Richard W. *Nationalism in Iran*. Pittsburgh: University of Pittsburgh Press, 1964.

_ Curzon, George N. *Persia and the Persian Question*, London: Cass, 1892 (1966 repr.).

_ Dabashi, Hamid. Theology of Discontent: The Ideological Foundations of the Islamic Revolution in Iran. New York: New York University Press, 1993.

_ Dhalla, Maneckji N. *Zoroastrian Civilization: From the Earliest Times to the Downfall of the Last Zoroastrian Empire.* New York: AMS Press, 1977.

_ Deshen, Shlomo A, and Walter P. Zenner. *Jewish Societies in the Middle East: Community, Culture, and Authority*. Washington, D.C: University Press of America, 1982.

_ Donini, Pier G. *Il Mondo Arabo-Islamico*. Roma: Lavoro, 1995.

_ Forand, Paul G. "Accounts of Western Travelers Concerning the Role of Armenians and Georgians in 16th-Century Iran." *The Muslim World*. 65.4 (1975): 264-278.

_ Farazmand, Ali. "Religion and Politics in Contemporary Iran." *International Journal on Minority and Group Rights*. 3.3 (1995): 227-257.

_ Firoozi, Ferydoon. "Tehran: a Demographic and Economic Analysis." *Middle Eastern Studies*. 10.1 (1974): 60-76.

_ Fisher, W B, Ilya Gershevitch, Ehsan Yarshater, Richard N. Frye, John A. Boyle, Peter Jackson, Laurence Lockhart, Peter Avery, Gavin Hambly, and C P. Melville. *The Cambridge History of Iran*. Cambridge: Cambridge University Press, 1968.

_ Fischel, Walter J. "The Jews of Persia, 1795-1940." *Jewish Social Studies*. 12.2 (1950): 119-160.

_ Foltz, Richard. *Spirituality in the Land of the Noble: How Iran Shaped the World's Religions*. Oxford: Oneworld, 2004.

_ Foltz, Richard. "Zoroastrians in Iran: What Future in the Homeland?" *The Middle East Journal*. 65.1 (2011): 73-84.

_ Fortman, Bastiaan De Gaay, Kurt Martens, and Mohamed A. R. M. Salih. *Hermeneutics, Scriptural Politics, and Human Rights: Between Text and Context*. New York: Palgrave Macmillan, 2010.

_ Frye, Richard N. *The Golden Age of Persia: The Arabs in the East*. London: Weidenfeld and Nicolson, 1975.

_ Frye, Richard N. *The Period from the Arab Invasion to the Saljuqs*. Cambridge: University Press, 1975.

_ Frye, Richard. "Ethnic Identity in Iran." *Jerusalem Studies in Arabic and Islam*. 26 (2002):78-83.

_ Ghods, M R. *Iran in the Twentieth Century: A Political History*. Boulder: L. Rienner Publishers, 1989.

_ Ghougassian, Vazken S. *The Emergence of the Armenian Diocese of New Julfa in the Seventeenth Century*. Atlanta, Ga: Scholars Press, 1998.

_ Gilbar, Gad G. *Demographic Developments in Late Qajar Persia, 1870-1906*. Haifa, 1976.

_ Godazgar, Hossein, and Laleh Fathi. "On the Boundaries of the State and the State of Boundaries in Iran." *Social Compass*. 52.2 (2005): 115-129.

_ Green, Nile. "The Survival of Zoroastrianism in Yazd." *Iran*. 38 (2000): 115-122.

_ Gregorian, Vartan. "Minorities of Isfahan: the Armenian Community of Isfahan 1587-1722." *Iranian Studies*. 7.4 (1974): 652-680.

_ Haddad, Heskel M. *Jews of Arab and Islamic Countries: History, Problems, Solutions*. New York: Shengold Publishers, 1984.

_ Hassan, Hussein D. *Iran: Ethnic and Religious Minorities*. Washington, D.C.: Congressional Research Service, Library of Congress, 2007.

_ Helfgott, Leonard M. "The Structural Foundations of the National Minority Problem in Revolutionary Iran." *Iranian Studies*. 13.4 (1980): 195-214.

_ Hemmasi, Mohommad, and Carolyn V. Prorok. "Demographic Changes in Iran's Officially Recognized Religious Minority Populations Since the Islamic Revolution." *African & Asian Studies*. 1.2 (2002): 63-86.

_ Herzig, Edmund. "The Deportation of the Armenians in 1604-1605 and Europe's Myth of Shah 'Abbas I," in *Persian and Islamic Studies in Honour of P.W. Avery*, ed. Charles Melville. Cambridge: University of Cambridge Centre of Middle East Studies, 1990.

_ Herzig, Edmund. *The Armenian Merchants of New Julfa, Isfahan: A Study in Pre-Modern Asian Trade*. Ph.D. dissertation, University of Manchestern, 1991.

_ Higgins, Patricia J. "Minority-state Relations in Contemporary Iran." *Iranian Studies*. 17.1 (1984): 37-71.

_ Hovanissian, Richard G. *The Republic of Armenia. Volume 1*. Berkeley: Univ. of California Pr, 1971.

_ Hovannisian, Richard G. *The Armenian People from Ancient to Modern Times. Volume II*. New York: St. Martin's Press, 1997.

_ Iran Statistical *Yearbook 1386: (2007-2008)*. Tehran: Statistical Centre of Iran, 2009.

_ Ishaya, Arian B. *The Role of Minorities in the State: History of the Assyrian Experience*. Winnipeg, Man., Canada: Dept. of Anthropology, University of Manitoba, 1977.

_ Jacson, Williams Andrew V. *Persia Past and Present: A Book of Travel and Research*.

New York: Macmillan, 1906.

_ Joseph, John. *The Nestorians and Their Muslim Neighbors: A Study of Western Influence on Their Relations*. Princeton, N.J: Princeton University Press, 1961.

_ Keddie, Nikki R. "Religion and Irreligion in Early Iranian Nationalism." *Comparative Studies in Society and History*. 4.3 (1962): 265-295.

_ Keddie, Nikki R. "Secularism and the State: Towards Clarity and Global Comparison." *New Left Review*. N 226 (Nov-Dec. 1997).

_ Kestenberg, Amighi Janet. *The Zoroastrians of Iran: Conversion, Assimilation, or Persistence.* New York: AMS Press, 1990.

_ Khanbaghi, Aptin. *The Fire, the Star and the Cross: Minority Religions in Medieval and Early Modern Iran*. London: I.B. Tauris, 2006.

_ Khomeini, Ruhollah. *Islam and Revolution: Writings and Declarations of Imam Khomeini*. Translated by Hamid Algar. Berkeley, CA: Mizan Press, 1981.

_ Labourt, Jérôme. *Le Christianisme Dans L'empire Perse Sous La Dynastie Sassanide, 224-632*. Paris: V. Lecoffre, 1904.

_ Lavi, Ḥabib. *Comprehensive History of the Jews of Iran: The Outset of the Diaspora*. Costa Mesa, CA: Mazda Publishers in association with the Cultural Foundation of Habib Levy, 1999.

_ Loeb, Laurence D. *Outcaste: Jewish Life in Southern Iran*. New York: Gordon and Breach, 1977.

_ Malcolm, John. *The History of Persia: From the Most Early Period to the Present Time: Containing an Account of the Religion, Government, Usages, and Character of the Inhabitants of That Kingdom*. London: Printed for John Murray by James Moyes, 1815, Vol. 2.

_ Malcolm, Napier. *Five Years in a Persian Town*. London: John Murray, 1908.

_ Marco Polo. *Il Milione*. Edited by Daniele Ponchiroli. Torino: G. Einaudi, 1968.

_ Martin, Richard C. *Encyclopedia of Islam and the Muslim World*. Farmington Hills, Mich.: Thomson/Gale, 2004.

_ McCabe, Ina Baghdiantz. *The Shah's Silk for Europe's Silver: The Eurasian Trade of the Julfa Armenians in Safavid Iran and India (1530-1750)*. Atlanta, Ga: Scholars Press, 1999.

_ Momen, Moojan, and H M. Balyuzi. *Studies in Bábí and Bahá'í History*. Los Angeles: Kalimát Press, 1982.

_ Momen, Moojan. "The Baha'is and the Constitutional Revolution: the Case of Sari, Mazandaran, 1906-1913." *Iranian Studies*. 41.3 (2008): 343-363.

_ Moreen, Vera B. *An Introductory Study of the Kitab-i Anusi by Babai ibn Lutf*. Ph.D. diss., Harvard University, 1978.

_ Moreen, Vera B. "The Status of Religious Minorities in Safavid Iran 1617-61." *Journal of Near Eastern Studies*. 40.2 (1981): 119-134.

_ Naby, Eden. "The Assyrians of Iran: Reunification of a "millat," 1906–1914." *International Journal of Middle East Studies*. 8.2 (1977): 237-249.

_ Nazir-Ali, Michael. "Christianity in Iran: a Brief Survey." *International Journal for the Study of the Christian Church*. 9.1 (2009): 32-40.

_ Oberling, Pierre. "The Role of Religious Minorities in the Persian Revolution, 1906-1912." *Journal of Asian History 12* (1978): 1-29.

_ Packard, Frances B. *The Story of Our Missions in Persia*. New York: Board of Foreign Missions of the Presbyterian Church in the U.S.A, 1920.

_ Payrow, Shabani O. "Reading Habermas in Iran: Political Tolerance and the Prospect of Non-Violent Movement in Iran." *Journal of Global Ethics*. 6.2 (2010): 141-151.

_ Ramazani, Nesta. "The Zoroastrians: the Faith Thrived in Iran Before Islam Now It Is Almost Gone-but It Has Left an Immense Cultural Impact." *Iran Times International* (Washington, Dc). 39.1 (2009).

_ Ringer, Monica. "Reform Transplanted: Parsi Agents of Change Amongst Zoroastrians in Nineteenth-Century Iran." *Iranian Studies*. 42.4 (2009): 549-560.

_ Rockwell, William W. *The Pitiful Plight of the Assyrian Christians in Persia and Kurdistan: Described from the Reports of Eye-Witnesses*. New York: American Committee for Armenian and Syrian Relief, 1916.

_ Rothschild, Joseph. *Ethnopolitics, a Conceptual Framework*. New York: Columbia University Press, 1981.

_ Sanasarian, Eliz. "Babi-bahais, Christians, and Jews in Iran." *Iranian Studies*. 31.4 (1998): 615-624.

_ Sanasarian, Eliz. *Religious Minorities in Iran*. Cambridge: Cambridge University Press, 2000.

_ Sanasarian, Eliz, and Avi Davidi. "Internal Iranian Dynamics - Domestic Tribulations and International Repercussions: the State and the Transformation of Non-Muslims." *Journal of International Affairs*. 60.2 (2007): 55-69.

_ Sanasarian, Eliz. "The Comparative Dimension of the Bahai Case and Prospects for

Change in the Future" in Dominic P Brookshaw, and Seena Fazel. *The Baha'is of Iran: Socio-historical Studies*. London: Routledge, 2008.

_ Sarshar, Houman. *The History of Contemporary Iranian Jews. Vol. 3*. Beverly Hills, Calif: Center for Iranian Jewish Oral History, 1999.

_ Sarshar, Houman. *Esther's Children: A Portrait of Iranian Jews*. Beverly Hills, Calif: Center for Iranian Jewish Oral History, 2002.

_ Sarshar, Houman. *Jewish Communities of Iran: Entries on Judeo-Persian Communities Published by the Encyclopedia Iranica*. New York: Encyclopedia Iranica Foundation, 2011.

_ Shaffer, Brenda. "Iran's Volatile Ethnic Mix." *International Herald Tribune*, June 2 (2006). Accessible at: http://www.iht.com/articles/2006/06/02/opinion/edshaffer.php.

_ Shahvar, Soli. "The Islamic Regime in Iran and Its Attitude Towards the Jews: the Religious and Political Dimensions." *Immigrants & Minorities*. 27.1 (2009): 82-117.

_ Shaked, Shaul, and Amnon Netzer. *Irano-judaica: Studies Relating to Jewish Contacts with Persian Culture Throughout the Ages*. Jerusalem: Ben-Zvi Institute for the Study of Jewish Communities in the East, 1982.

_ Shaked, Shaul. *From Zoroastrian Iran to Islam: Studies in Religious History and Intercultural Contacts*. Aldershot, Great Britain: Variorum, 1995.

_ Siṭon, Daṿid. *Sephardi Communities Today*. Jerusalem: Council of Sephardi and Oriental Communities, Jerusalem, 1985.

_ Smith, Peter. "A Note on Babi and Baha'i Numbers in Iran." *Iranian Studies. 17.3 (1984): 295-301.*

_ Smith, Peter. *The Babi and Baha'i Religions: From Messianic Shi'ism to a World Religion*. Cambridge: Cambridge University Press, 1987.

_ Sobhani, Sohrab. *The Pragmatic Entente: Israeli-iranian Relations, 1948-1988*. New York: Praeger, 1989.

_ Spector, Daniel E. *A History of the Persian Jews*. University of Texas at Austin, 1975.

_ Tavernier, Jean-Baptiste. *Les Six Voyages de Turquie et de Perse*: 2. Ed. Stefanos, Yerasimos. Paris: Maspero, 1981.

_ Tezcur, Gunes M, Taghi Azadarmaki, and Mehri Bahar. "Religious Participation Among Muslims: Iranian Exceptionalism." Critique: Critical Middle Eastern Studies. 15.3 (2006).

_ Theodoulou, Michael. "Jews in Iran Describe Life of Freedom Despite Anti-Israel

Actions by Tehran." *The Christian Science Monitor*. 90.47 (1998). Accessible at: https://www.georgiastandards.org/resources/Lexile_in_Action/SS7G8_1110.pdf

_ Tsadik, Daniel. "The Legal Status of Religious Minorities: Imāmī Shī'ī Law and Iran's Constitutional Revolution." *Islamic Law and Society*. 10.3 (2003): 376-408.

_ Tsadik, Daniel. *Between Foreigners and Shi'is: Nineteenth-century Iran and Its Jewish Minority*. Stanford, Calif: Stanford University Press, 2007.

_ Van Gorder, A. Christian. *Christianity in Persia and the Status of Non-Muslims in Iran*. Lanham: Lexington Books, 2010.

_ Vassilian, Hamo B. *Armenians and Iran: A Comprehensive Bibliographic Guide to Books Published in the Armenian, Persian, English, and Russian Languages.* Glendale, CA: Armenian Reference Books Co, 1994.

_ Vine, Aubrey R. *The Nestorian Churches*. New York: AMS Press, 1980.

_ Waterfield, Robin E. *Christians in Persia: Assyrians, Armenians, Roman Catholics and Protestants*. New York: Barnes & Noble, 1973.

_ Widengren, Geo. The Status of the Jews in the Sassanian Empire. Jerusalem: Hebrew University, 1968.

_ Wigram, W A. *An Introduction to the History of the Assyrian Church or the Church of the Sassanid Persian Empire, 100-640 A.D*. London: Society for promoting Christian knowledge, 1910.

_ Yeroushalmi, David. *The Jews of Iran in the Nineteenth Century: Aspects of History, Community, and Culture*. Leiden: Brill, 2009.

_ Young, William G. *Patriarch, Shah, and Caliph: A Study of the Relationships of the Church of the East with the Sassanid Empire and the Early Caliphates Up to 820 A.D., with Special Reference to Available Translated Syriac Sources*. Rawalpindi: Christian Study Centre, 1974.

History and Society of Iran

_ Abdo, Geneive, and Jonathan Lyons. *Answering Only to God: Faith and Freedom in Twenty-First-Century Iran*. New York: Henry Holt and Co, 2003.

_ Abrahamian, Ervand. *A History of Modern Iran*. Cambridge, U.K: Cambridge University Press, 2008.

_ Algar, Hamid. *Constitution of the Islamic Republic of Iran*. Berkeley, Calif.: Mizan Press, 1980.

_ Ansari, Ali M. *Modern Iran since 1921. The Pahlavis and after.* London: Longman, 2003.

_ Axworthy, Michael. *Empire of the Mind. A History of Iran*. London: Hurst & Company, 2008.

_ Fatemeh Sadeghi, "Why We say "No" to the Compulsory Hijab?". Accessible at: http://iranianvoicesintranslation.blogspot.com/2009/07/fatemeh-sadghi-is-assistant-professor.html

_ Guolo, Renzo. *La via dell'imam. L'Iran da Khomeini a Ahmadinejad*. Roma-Bari: Laterza, 2007.
_ Iran Human Rights Documentation Centre, *Ctrl + Alt + Delete: Iran's Response to the Internet*. New Haven, Conn: Iran Human Rights Documentation Center, 2009.

_ Iranian Press Law (Ratified on March 19, 1986). Accessible at: http://www.parstimes.com/law/press_law.html

_ Keddie, Nikki R, Yann Richard. *Modern Iran: Roots and Results of Revolution*. New Haven, Conn: Yale University Press, 2003.

_ Kianush, Mahmud. *Modern Persian Poetry*. Ware, Herts: Rockingham Press, 1996.

_ Negri, Alberto. *Il turbante e la corona. Iran, trent'anni dopo.* Milano: Tropea, 2009.

_ Petrillo, Pier Luigi. *Iran*. Bologna: Il Mulino, 2008.
_ Redaelli, Riccardo. *L'Iran Contemporaneo*. Roma: Carocci, 2011.
_ Schirazi, Asghar. *The Constitution of Iran: Politics and the State in the Islamic Republic*. London: I.B. Tauris, 1997.

_ Wright, Robin B. *The Iran Primer: Power, Politics, and U.S. Policy*. Washington, D.C: United States Institute of Peace, 2010.

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_ Arber, Anne. "Reflexivity." *Journal of Research in Nursing*. 11.2 (2006): 147-157.

_ Atkinson, Robert. *The Life Story Interview*. Thousand Oaks, Calif: Sage Publications, 1998.

_ Balani, V. *Listen to our lives: life histories of five women from the Bhilala tribe in rural Madhya Prades, India*. Thesis (Ph.D.), University of Minnesota, 2000.

_ Bertaux, Daniel, and Rita Bichi. *Racconti Di Vita: La Prospettiva Etnosociologica*. Milano: Angeli, 1999.

_ Bichi, Rita. *La Conduzione Delle Interviste Nella Ricerca Sociale*. Roma: Carocci,

2007.

_ Borg, Walter R, and Meredith D. Gall. *Educational Research: An Introduction*. New York: Longman, 1996.

_ Braun, Virginia, and Victoria Clarke. "Using Thematic Analysis in Psychology." *Qualitative Research in Psychology*. 3.2 (2006): 77-101.

_ Bryman, Alan. *Social Research Methods*. Oxford: Oxford University Press, 2008.

_ Burns, Nancy, and Susan K. Grove. *The Practice of Research: Conduct, Critique, and Utilization (5th ed.)*. Philadelphia: Saunders, 2005.

_ Butt, R. "Studying the Nature and Development of Teachers' Knowledge Using Collaborative Autobiography." *International Journal of Educational Research*. 13.4 (1989): 403-419.

_ Carpenter, Christine, and Melinda Suto. *Qualitative Research for Occupational and Physical Therapists: A Practical Guide*. Oxford: Blackwell Pub, 2008.

_ Cohen, Louis, Lawrence Manion, and Keith Morrison. *Research Methods in Education*. London: RoutledgeFalmer, 2003.

_ Cole, Ardra L, and J G. Knowles. *Lives in Context: The Art of Life History Research*. Walnut Creek, CA: AltaMira Press, 2001.

_ Corti, L., and Thompson, P. "Secondary analysis of archived data" in Seale, Clive. *Qualitative Research Practice*. London: Sage, 2004.

_ Creswell, John W. *Educational Research: Planning, Conducting, and Evaluating Quantitative and Qualitative Research*. Upper Saddle River, N.J: Pearson/Merrill Prentice Hall, 2008.

_ Creswell, John W., and Clark V. L. Plano. *Designing and Conducting Mixed Methods Research.* Los Angeles: SAGE Publications, 2011.

_ Daly, Kerry J. *Qualitative Methods for Family Studies & Human Development*. Los Angeles: Sage Publications, 2007.

_ Denscombe, Martyn. *The Good Research Guide: For Small-Scale Social Research Projects*. Maidenhead: Open University Press, 2007.

_ Denzin, Norman. K., and Lincoln, Yvonna S. *Handbook of qualitative research (3rd ed.)*. Thousands Oaks, CA: Sage Publication, 2005.

_ Dollard, John. *Criteria for the Life History: With Analysis of Six Notable Documents*. New Haven: Pub. for the Institute of Human Relations by Yale University Press, 1935.

_ Gibbs, Graham. *Analyzing Qualitative Data*. Los Angeles: SAGE Publications, 2007.

_ Glaser, Barney G. *Theoretical Sensitivity: Advances in the Methodology of Grounded Theory*. Mill Valley, Calif: Sociology Press, 1978.

_ Goodson, Ivor. "The Use of Life Histories in the Study of Teaching" in Hammersley, Martyn. *The Ethnography of Schooling: Methodological Issues*. Driffield: Nafferton, 1984, pp. 129-154.

_ Goodson, Ivor. "The Story of Life History: Origins of the Life History Method in Sociology." *Identity*. 1.2 (2001): 129-142.

_ Gubrium, Jaber F, and James A. Holstein. *Handbook of Interview Research: Context & Method*. Thousand Oaks, Calif: Sage Publications, 2002.

_ Holliday, Adrian. *Doing and Writing Qualitative Research*. London: Sage, 2007.

_ Holstein, James A, and Jaber F. Gubrium. *Inside Interviewing: New Lenses, New Concerns*. Thousand Oaks Calif.: Sage Publications, 2003.

_ Kvale, Steinar. *Doing Interviews*. London: Sage Publications, 2007.

_ Kvale, Steinar, and Svend Brinkmann. *Interviews: Learning the Craft of Qualitative Research Interviewing*. Los Angeles: Sage Publications, 2009.

_ Labaree, Robert V. "Encounters with the Library: Understanding Experience Using the Life History Method." *Library Trends*. 55.1 (2006): 121-139.

_ Lawrence-Lightfoot, Sara. *Respect: An Exploration*. Reading, Mass: Perseus Books, 1999.

_ Liamputtong, Pranee. *Qualitative Research Methods*. Oxford: Oxford University Press, 2009.

_ Lincoln, Yvonna S., and Egon G. Guba. *Naturalistic Inquiry*. Beverly Hills, Calif: Sage Publications, 1985.

_ Lofland, John. *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis*. Belmont (Cal.: Wadsworth Publishing Company, 1971.

_ McIntyre, Maura, and Ardra Cole. "Conversations in Relation: the Research Relationship In/as Artful Self-Study." *Reflective Practice*. 2.1 (2001): 5-25.

_ Merchant, Niloufer, and Paula Dupuy. "Multicultural Counseling and Qualitative Research: Shared Worldview and Skills." *Journal of Counseling & Development*. 74.6 (1996).

_ Miles, Matthew B, and A M. Huberman. *Qualitative Data Analysis: An Expanded Sourcebook*. Thousand Oaks: Sage Publications, 1994.

_ Minichiello, Victor. *In-depth Interviewing: Principles, Techniques, Analysis*. Melbourne: Longman, 2008.

_ Patton, Michael Q. *Qualitative Research and Evaluation Method (3rd ed.)*. Thousand Oaks: Sage Publications, 2002.

_ Richards, Lyn. *Handling Qualitative Data: A Practical Guide*. London: Sage Publications, 2009.

_ Ritchie, Jane, and Jane Lewis. *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. London: Sage Publications, 2003.

_ Rubin, Herbert J, and Irene Rubin. *Qualitative Interviewing: The Art of Hearing Data*. Thousand Oaks: Sage Publications, 1995.

_ Seidman, Irving. *Interviewing As Qualitative Research: A Guide for Researchers in Education and the Social Sciences*. New York: Teachers College Press, 2006.

_ Strauss, Anselm L., and Juliet M. Corbin. *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. Thousand Oaks: Sage Publications, 1998.

_ Twycross A., and L. Shields. "Reliability and Validity in Practice: Assessment Tools." *Paediatric Nursing*. 17.9 (2005).

_ Van Manen, Max. *Researching Lived Experience: Human Science for an Action Sensitive Pedagogy*. Albany, N.Y.: State University of New York Press, 1990.

_ Whitt, Elizabeth J. "Artful Science: a Primer on Qualitative Research Methods." *Journal of College Student Development*. 32.5 (1991): 406-15.