



## A Comparative and Educational Study of Laws in Litigation of Religious Minorities in Iran and Lebanon

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ARTICLE INFO	ABSTRACT
<p>Received: 05 April 2020 Revised: 29 April 2020 Accepted: 14 May 2020 Online: 05 June 2020</p>	<p>The freedom of religious minorities has become one of the most important issues in world politics. Promoting human equality, deepening national identity and educating law-abiding citizens as new goals of educational systems can be achieved through teaching of laws - especially rights of minorities- to children. This educational mission is even more important in countries with religious diversity. Iran and Lebanon are among countries with large number of religious minorities. The purpose of this paper is to compare educational rules and regulations of religious minority in Iran and Lebanon. This is a qualitative comparative research using documentary method for collection of data and content analysis approach. The research findings show main issues related to education of minorities' rights in both countries that are definition and types of religious minorities, principles governing rights of minorities, proponents and opponents of formation an special authorities for religious minorities, trail's organizations, conditions and procedure and problems of litigation. The results also show that the differences between two countries in dimensions of minority rights are more than their similarities. According to the findings, it is suggested that the structure of Minority Rights Education Program in Iran to be adapted to new developments in the world.</p>
<p><b>KEYWORDS</b></p> <p>Education of Law Judicial independence Minority rights Religious minority Special authorities Iran Lebanon</p>	

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## 1. Introduction

Cultivating Rapid social change over the last half century has drastically changed the structure of societies. The growth of communication technologies, increasing relations between nations, political events and mass migration have led us to face societies today that do not have a single racial, religious, cultural, political and economic composition. In fact, it is rare to find a country where all its citizens are of one race and ethnicity, speak one language and follow one religion (Pew Research Center. 2017). Variety in religion, race, language, and culture combined with demographic imbalances has given rise to two terms "majority and minority" in different parts of the world. Thus, while in most countries the majority of population shares a common race, language, history, culture, and religion, there are also smaller population groups that have their own social characteristics. One of the most important minorities is "religious minorities" (Ghanea 2012).

From a legal point of view, a minority is a "group of a political community or a nation-state that is usually smaller in number and has a distinct identity from other members of society due to factors such as ethnicity, religion, language, culture, and so on. They do not participate in the management of society and its various spheres - effectively and with equal opportunity - and are sometimes subjected to discrimination, humiliation and oppression "(Dashti, 2014, 44). Sociologically, a minority is "a group with distinct ethnic, racial, or religious characteristics that places it in a position of limited power and unfavorable position in a way that members suffer from limited opportunities and rewards," (Noorbakhsh, 2005, 18). With the growth of social awareness, increase of individual freedoms, development of international human rights organizations and attention of governments to citizenship rights, the legal status of minorities in many countries has attracted attention of social reformers, government officials and legislators. Minority rights have been considered in two ways: First, access to fundamental freedoms and non-discrimination in law, and Second, the preservation of their ethnic, cultural, and religious identity (OSCE, 2014).

Religious minorities exist in most countries of the world, and their presence on social scene - especially their place in legal system - is one of the hallmarks of good governance. For this reason, respect for religious freedom and protection of rights of religious minorities have been emphasized in international documents (United Nations, 1992). However, the guarantee of these rights does not depend solely on the enactment of laws and requires the institutionalization of desirable social behaviors in interaction with minorities. Naturally, one of the most important institutions that can

institutionalize respect for the rights of social minorities is the education system. This system can educate "law-abiding citizens" in accordance with social and technological developments (Tyle, 2000); a citizen who respects rights of all people - regardless of their race, language, religion or ethnicity-. The education system can institutionalize and educate this citizen in two stages: First, providing basic training from formal general education courses (from primary to secondary schools) and second, specialized training for law enforcement personnel (judge, lawyer, police, etc.).

One of the ways to strengthen education system achieving valuable goal of fostering "law-abiding citizen" is to get acquainted with experiences of countries with diverse racial, linguistic, religious and cultural contexts. Studying social status of religious minorities - especially in terms of legal rights - can help social policymakers, educational planners, lawyers, and legislators to see laws from a comparative perspective. Naturally, researchers can select many countries for this comparison. The present researchers found that Lebanon - due to its geographical proximity, religious similarities, deep political ties, diversity of religious minorities and historical similarities in the legislative process (role of French legal system) - is a great choice to compare with Iran. Over the past four decades, Iran-Lebanon relations have been largely influenced by political relations, but at the same time, similar aspects of two countries can be considered in terms of minority rights (Fulton, 2010). The two countries are similar in terms of religious minorities' status in two main ways: The first is diverse composition of religious minorities; and the second is historical similarity in the legislative process. These similarities can provide us with a main framework for comparing laws of religious minorities. According to this introduction, the main purpose of present study is a comparative study of religious minority law in Iranian and Lebanese law. The two main research questions are: First, what are the main principles governing rights of religious minorities in educational resources of two countries, and second, what are similarities and differences between two countries regarding rights of minorities.

## **2. Research Method**

The present study is a qualitative comparative research. Statistical population includes all countries in the world, and according to the subject of research and facilities available to researchers, only two countries, Iran and Lebanon were selected for study. Therefore, the sampling method is conscious and purposeful. The rationale for choosing Iran and Lebanon is that there are

many similarities between various aspects of socio-cultural, religious, and historical system of two societies, and researchers seek to examine legal approaches of both countries from an educational perspective. The method of data collection is documentary and through the study of related sources – Constitution and most important legal approvals - listed in catalogs, national reports, reference and reference works such as books, publications, and information bases. Thematic content analysis approach was used to analyze data (Blaki, 2010). This method is able to analyze written sources and any text - such as verbal, visual, printed and electronic data that may be obtained from narratives, interviews, survey questions, observation and study of documents (Hsiu- Fang & Shannon, 2005).

### **3. Results**

The results of the research are presented in three sections: the characteristics of social system, the description of laws of religious minorities, and comparison of two countries.

#### *First: Characteristics of social system*

Data from Table 1 show that both Iran and Lebanon are geographically located in the Middle East, a region that has historically been home to many religions and has been a major source of religious strife for the past half-century. In terms of geographical size and population, there are differences between two countries: While Lebanon is a small country; Iran is one of the largest countries in the Middle East with a population 12 times larger than Lebanon. In terms of religious minorities, while about 90 percent of Iran's population is Shiite, Lebanon has more than 18 religious denominations. Also in Iran, a religious government holds power, while in Lebanon important political positions are divided between different religions. In terms of legal impact, both countries have learned many lessons from France. The length of compulsory education as well as literacy in Lebanon (93%) is more than in Iran. In addition, GDP in Lebanon is higher than in Iran.

*Table 1*  
Social characteristics of Iran and Lebanon

Factor	Iran	Lebanon
Geographical location	Middle East	Middle East
Population*	83,800,000	6,849,000
Religious minorities **	89% Shiite 9 % Sunnis 1% Christian, Jewish, Zoroastrian and unknown	Sunnis (27%) Shiite (27%) Maronite Catholic Catholicism (21%) Greek Catholic (5%) Greek Orthodoxy (8%) Other Christians (Armenians and others) (6.5%) Druze (5.6%) Other (1%)
Political structure	Islamic Republic	Parliamentary Republic A combination of civil,
Foundation of legal system	Islam	Islamic and Ottoman legal principles
Compulsory education	Ages 6 to 15	Ages 3 to 18
GDP***	5,627	8,269

Source: \*Worldometers, 2020a, b; \*\* Betts, 2020 & Henley, 2016; \*\*\*CEIC, 2018a, b

*Second: A description of structure and rules of religious minorities*

This section consists of two parts: First section presents structure of issues and laws related to rights of religious minorities, which are discussed in the curriculum of law in Iran and Lebanon. The second section summarizes content of rules in both communities:

*1: The structure of legal issues*

Given that Iran and Lebanon have diverse religious minorities, Table 1 shows the main rules that law students are familiar with:

Table 2

Characteristics and main rules of religious minorities in the academic system of Iran and Lebanon

Subject	Iran	Lebanon
Type of religious minorities	Zoroastrians, Christians, Jews, Sunnis	Christian tribes, Islamic tribes, Jewish tribe
Kind of Minority	Formal / informal	Formal
History of the passage of laws for religious minorities	Pre-Islamic period, Islamic period, Western period, new period	Roman period, Ottoman period, French period, new period
Proponents and opponents of the formation of special authorities for religious minorities	Basis of principle of unity of legal system / permission to deviate from principle of unity of legal system	Basis of principle of unity of legal system / permission to deviate from principle of unity of the legal system
Fundamentals of Jurisdiction of Religious Minorities	Human dignity / denial of discrimination / freedom of opinion / justice / peaceful coexistence	Human dignity / denial of discrimination / freedom of opinion / justice / peaceful coexistence
Judicial independence of minorities	Formal rights / substantive rights	Formal rights / substantive rights
Type of claim	Claim of different religious people	-
Organization, conditions and procedure of trials	Lack of separate judiciary	Separate judicial organization
Procedure and conditions of special authorities	Lack of special law on the conditions and organization of these authorities	Religious authorities
Revisal of decrees of special authorities of religious minorities	Subject to general law	Special Courts

Source: Research Data

Data from Table 2 show that religious diversity in Lebanon is much higher than in Iran, with about 40 percent of population being non-Muslims. For this reason, we can see division of political power between different religious and ethnic groups. Another point to note is that in Lebanon, all religious minorities are recognized, while this is not case in Iran. Another issue is historical period of passing laws for religious minorities in both societies. An examination of historical sources shows that in Iran we are facing four pre-Islamic, Islamic, Western, and modern periods. In pre-Islamic Iran, laws related to religious minorities were largely influenced by Zoroastrianism (as the religion of majority of people) (Foltz. 2011). After the arrival of Islam and for about one thousand two hundred years (until the establishment of Qajar dynasty), Islamic laws played a major role to determine rights of minorities (Ceasefire Center for Civilian Rights. 2018). After the arrival of

Westerners in Iran and expansion of their influence, as well as Iranians' familiarity with new civilization, countries such as France became role model for Iranian jurists, which reached its peak in the Pahlavi dynasty era (Pourarian, & Badr, 2017). The new era, influenced by victory of Islamic Revolution since the late 1970s, has so far witnessed influence of Islamic law in relations between Muslims and other religious sects. Lebanon has also witnessed influence of four periods: Roman, Ottoman, French, and modern eras, on relations between religious minorities.

Another topic of interest for education planners in the field of law in both countries is necessity or non-necessity of set up special authorities for religious minorities. A review of the data shows that although both countries emphasize need to establish special authorities for religious minorities, it seems that in Iran and in practice, the emphasis is on all citizens of the country to follow same law. Based on this thought, issues such as the principle of judicial independence of minorities, judicial organizations, revision of decrees of special authorities of religious minorities and conditions of these authorities are mainly subject to the general law, although measures to refer to specific authorities are provided. In the following sections and in order to become more familiar with rules of religious minorities, some of the items listed in Table 2 will be explained separately.

## *2. Characteristics of religious minorities*

In the Constitution of Islamic Republic of Iran, three distinct groups of minorities can be distinguished: religious minorities (Zoroastrian, Jewish, and Christian) in principle 13, and non-book addicts as non-Muslims in principle 14, religious minorities (Sunnis Hanafi, Maliki, Hanbali, and the Zaydi) in Article 12 and the ethnic minority (whose names are not mentioned, but they are referred to in Special Principles, as in Articles 15 and 19). The attribute of ethnic minority, according to the Article number 19 of Constitution (ethnicity, tribe, color, race, language, etc.), can be combined with the attribute of religious minority, and in practice there is such a group. For example, the Armenians of Iran, while religiously Christian, have distinct languages and dialects (Rezaei, & Tadayyon, 2018). The three formal non-Muslim minorities in Iran are Zoroastrians, Christians, and Jews. Zoroastrianism was founded 1200 to 1000 BC by the Iranian prophet, Zoroaster. Jews have lived in the territory of present-day Iran since 2700 years ago (Heydari, 2004), and from the second century AD, at the same time as the Parthian rule, Christian organizations were formed in Iran (Fattah, 2009). Currently, law students at Iranian universities are studying the laws related to religious minorities such as Articles 12 and 13 of the Constitution,

Unified Article of the Law on Observance of Personal Status of Non-Shiite Iranians approved in 1312, laws approved by the Expediency Discernment Council on July 3, 1993, and Note 4 of the Family Protection Law.

In Lebanon, there are three major religions: Christianity, Islam, and Judaism. These religions are divided into eighteen (and even more) religious sects. In addition to the courts of law, there is a religious tribunal for each sect. Article 9 of the Lebanese Constitution recognizes division of this country according to official religions, and government guarantees religious interests of all citizens. Sunni followers have Sharia courts based on Hanafi religion, Shiites have courts based on Jafari jurisprudence, and eleven Christian denominations have their own religious courts. In addition, Article 9 of the Lebanese Constitution states that there is absolute freedom of opinion. In Lebanon, the government has given tribal and religious authorities to legislate and judge personal matters.

### *3. Principles of judicial jurisdiction of special authorities of religious minorities*

In order to accept the jurisdiction of the special authorities of religious minorities, it is necessary to believe in the legal principles, which is briefly mentioned in this section:

The first principle is the belief in judicial independence of religious minorities. In other words, one of the rights of citizens is right to seek judicial justice. These rights include litigation, right to equality before the courts, right to self-defense, and so on. This principle is enshrined in most international human rights instruments for religious minorities (Finke, Martin, & Fox, 2017). In Iranian law, the independence of religious minorities in personal status is enshrined in Article 13. Judicial independence of minorities is one of the issues that ensure survival of a diverse Lebanese society. Lebanon is a country of nineteen religious communities whose official recognition was included in the March 13 decree of High Commissioner of the French Republic. Before becoming a Lebanese citizen, every Lebanese considers himself to belong to a particular religious community that legally needs it for marriage, divorce, and even death (Lian, 2013).

Respect for human dignity is second principle that supports jurisdiction of certain religious minority authorities. Human dignity requires that individuals be able to freely follow their religious customs (Seyed Fatemi, 2014). Paragraph 6 of second principle of the Constitution of Islamic Republic of Iran emphasizes this principle. Article 10 of the Lebanese Constitution also addresses inherent dignity of human beings.



The third principle is denial of discrimination. In Islamic teachings, regardless of ethnicity, race, or nationality, all people are equal. The principle of non-discrimination in the Iranian constitution has been repeatedly, directly and indirectly considered. Article 19 of the constitution states that the people of Iran, regardless of race or ethnicity, have equal rights, and color, race, language, and the like will not be a privilege. Paragraph 9 of Article 3 of the Constitution also refers to elimination of unlawful discrimination and establishment of fair opportunities for all. This principle is also taken into account in the Lebanese constitution. Paragraph T of Constitution's introduction states that the land of Lebanon is a unified land for its entire people and there is no discrimination between the people.

The fourth principle, freedom of opinion, also emphasizes respect for rights of minorities. The Qur'an explicitly rejects coercion and reluctance to accept religion. Article 23 of the Iranian Constitution prohibits examination of opinions and emphasizes that no one can be attacked and reprimanded simply for having an opinion (Fahimi, 2002). According to the Lebanese Constitution, there is absolute freedom of opinion (paragraph c of the Constitution).

#### *4. Organization and conditions of special authorities of religious minorities of Iran and Lebanon*

In Iran, the highest religious authority in the Zoroastrian community is Mubadiyan Association, which is approved by the Ministry of Interior and its members are elected every three years. Members of the Zoroastrian Association are elected through Zoroastrian community and have twenty-one members. Of these, seven will be nominated for the Dispute Resolution Council. The special authorities of the Christian religious minorities in Iran operate in form of two authorities, the Gregorian Christians and Eastern Christians of Ashur (Khorsand, 2017). None of the members of the religious authority will be issued a warrant by the judiciary or other government officials. At least three rabbis are required to form authorities in the Kalimian Association. No special conditions are provided for the selection of rabbis, and they are introduced by the Kalimian community.

The single article, passed in August 1941, allows for the observance of the rules of personal status of non-Shiite Iranians in the courts. Accordingly, matters such as marriage, divorce, inheritance, will, qualifications and adoption have been identified as examples of personal circumstances (Hashemi Ardestani, 2009). None of the members of religious authority will be issued a warrant by judiciary or other government officials. At least three rabbis are required to

form authorities in the Kalimian Association. No special conditions are provided for selection of rabbis, and they are introduced by the Kalimian community. The single article, passed in August 1941, allows for observance of rules of personal status of non-Shiite Iranians in the courts. Accordingly, matters such as marriage, divorce, inheritance, testament, qualifications and adoption have been identified as examples of personal circumstances (Hashemi Ardestani, 2009). Also, according to the Family Protection Law approved in 2012, accounting matters such as personal status are considered in special authorities of religious minorities. In Lebanon, special authorities of religious minorities have similar organizations.

### *Third. Comparison of religious minority laws*

Analysis of the research data shows that many similarities and differences can be found between two countries' legal education systems, which can be considered by the curriculum's specialists of this scientific field. Table 3 lists the following:

*Table 3*

Characteristics and main rules of religious minorities in educational system of Iran and Lebanon

Subject	Iran	Lebanon
Type of religious minorities	4	19
Kind of Minority	2	1
History of the passage of laws for religious minorities	4	4
Proponents and opponents of the formation of special authorities for religious minorities	Low emphasis	High emphasis
Fundamentals of Jurisdiction of Religious Minorities	High emphasis	High emphasis
Judicial independence of minorities	Low emphasis	High emphasis
Type of claim	Variety	No variety
Organization, conditions and procedure of trials	Low emphasis	High emphasis
Procedure and conditions of special authorities	Low emphasis	High emphasis
Revisal of decrees of special authorities of religious minorities	High emphasis	Low emphasis

According to method of content analysis in qualitative research, it can be said that words in legal documents of both countries have been selected with full knowledge of legislator and according to responsibility of each word. The analysis of words, sentences and paragraphs shows

similarities and differences between two societies. Accordingly, the commonalities of the two societies are:

- Religious diversity is evident in both societies.
- The rights of religious minorities are enshrined in constitution and important laws of both countries.
- Both countries have a long history of religious minority law.
- In both countries, efforts have been made to pass laws in favor of respect for rights of religious minorities by referring to general and accepted principles of international community.

Content analysis of the laws also shows many differences between the two countries. The main differences are:

- Diversity of religious minorities in Lebanon is more than in Iran.
- In Iran, unlike Lebanon, religious minorities are divided into formal and informal groups.
- In Iran, formation of special authorities for religious minorities has not been explicitly emphasized by the legislature.
- In Lebanon, the principle of judicial independence of minorities has been given more attention by legislature, and diversity of religious courts is more than in Iran.
- In Iranian law, in terms of litigation, individuals are religiously divided into different groups.
- In Iran, establishment of separate organizations, conditions and procedure for religious minorities is limited to personal status such as marriage, divorce, and inheritance
- In Lebanon, conditions of special authorities and handling of religious minority lawsuits have been emphasized in personal cases with the Code of Civil Procedure.
- Unlike in Iran, Lebanon does not deal with sensitive matters such as protection and privacy in the specific authority of religious minorities.

#### **4. Conclusion**

The aim of present study was to compare educational rules and laws related to religious minorities in the two countries of Middle East. The term Middle East does not evoke freedom

because most of world's authoritarian governments are in this region. In addition, the number of countries that have formal religion or support majority religion is higher in this region than anywhere else in the world (Fax, 2013). Given these two facts, it is important to pay attention to rights of religious minorities and to analyze content of law education programs in the universities of Middle East. The findings show that different laws on individual and social rights of religious minorities have been passed in both countries. The findings also show that over time, we are witnessing an evolutionary process of passing laws in favor of religious minorities in both countries. In addition, from the analysis of the results, it can be inferred that religious structure of political power in Iran and secularism in Lebanon have influenced process of passing laws related to religious minorities. Of course, in both countries, the decrees issued by the supreme authorities of religious minorities are legally valid and enforceable in courts; although in Lebanon non-Muslims have a greater share of power than in Iran. Also, the research findings show that in Iran and in the field of individual relations, judges, lawyers and legislators face more challenges because they are divided into different groups in terms of religion. For example, in cases such as marriage of individuals of different religious groups with each other or adoption of children of these individuals - If one of the parents dies -, there is no written law to deal with. The last point that can be said is that although in both countries rights of religious minorities are emphasized in various laws, it is very important to what extent these laws have been implemented in practice.

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