



Africa

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Minority rights protection and promotion in Africa did not register much improvement in 2009. Forced or threatened evictions, either on the grounds of environmental protection or to secure land for national development, took place among hunter-gatherer communities of Ogiek and Sengwer peoples in Kenya. Pastoral Maasai in the Loliondo area in Ngorongoro district of Tanzania also suffered forced evictions that were particularly violent, including rapes perpetrated by security agents of the state. Responding to the widespread nature of these evictions, the African Commission on Human and Peoples' Rights (ACHPR) issued an urgent appeal requiring the Tanzanian state to halt the evictions and provide an explanation, which had not been received by the 46th Ordinary Session of the ACHPR in November 2009.

Conflicts in Chad, Democratic Republic of Congo (DRC) and Sudan continued to disproportionately impact on minority communities, and particularly on minority women and children. The Lord's Resistance Army (LRA), a Ugandan rebel force, attacked villages in the DRC and, according to the UN High Commissioner for Refugees (UNHCR), displaced over 120,000 people in the months of August and September 2009. Conflict also continued in North and South Kivu, affecting many communities including the Batwa/Bambutu. In Ethiopia, the conflict between the government and the Ogaden National Liberation Front (ONLF) in Somali Region has continued into 2009. In August 2009 Al-Jazeera, the international news service, interviewed human rights defenders who alleged that the scale of indiscriminate killings and burning of villages taking place in the Ogaden was of a similar nature to those happening in Darfur in Sudan. Only a few reports on this low-intensity – but nevertheless deadly – conflict in Ogaden have been published due to severe restrictions on the media and humanitarian organizations by the Ethiopian government.

Indigenous peoples also bore the brunt of the impact of climate change. East African pastoralists, for instance, lost 70 per cent of their livestock during the drought of 2006–9, according to a report by the Humanitarian Policy Group, a collective of non-governmental organizations (NGOs) and others including Care International. As their traditional resource base diminishes, traditional practices of

cattle and goat farming have disappeared, creating greater food insecurity and increasing dependency on the state for food rations, MRC's 2009 work on climate change found. The failure by the UN Conference on Climate Change in Copenhagen in December 2009 to agree on an international treaty to check global warming represents a great threat to the livelihoods of indigenous peoples in Africa. These livelihoods are already stretched beyond their capacity for resilience, according to the ACHPR in its 2009 work on climate change and human rights.

The link between natural resource exploitation and the violation of minority rights remained of significant concern in 2009, especially in the energy sector. This trend is expected to intensify with the energy needs of the continent far outstripping supply. According to Friends of Lake Turkana, a Kenyan NGO, the construction of the Gibe III project in Ethiopia's Omo River, a main inlet of Kenya's Lake Turkana, will have adverse impact on the Karamojong, Turkana and Toposa communities that depend on the Lake Turkana basin. Further, the expansion of Olkaria II geothermal fields in Kenya, as reported by news agency Bloomberg in November 2009, may have a negative environmental and socio-cultural impact on the Maasai community living in the precincts of Kenya's Hell's Gate National Park, according to the Centre for Minority Rights Development (CEMIRIDE), a Kenyan NGO.

In Uganda, oil finds in Bunyoro, in Amuru district of Northern Uganda, are also increasing tension between Kampala and communities in one of Uganda's ancient kingdoms, the Bunyoro-Kitara empire. These large energy projects have reportedly been implemented without the free, prior and informed consent of minority communities.

Global food security is a problem that profoundly impacts on the minorities and indigenous peoples in Africa; food insecurity was severe in 2009. In response to this crisis, some of the world's wealthiest countries, notably the Gulf States and China, are buying or leasing land in Africa to satisfy their appetite for food and bio-fuels. In what the UN Food and Agriculture Organization (FAO) described as the 'new scramble for Africa', nearly 2.5 million hectares (6.2 million acres) of farmland in just five sub-Saharan countries, Ethiopia, Ghana, Madagascar, Mali and Sudan, have been bought or rented in the past five years at a total cost of

\$920m (£563m). It is arguable that such practices disproportionately impact on land held by minority or indigenous groups, largely because these groups own land under tenure arrangements that are not sufficiently protected by national legal systems. This situation is more serious for women and children among vulnerable minority groups, who must provide for families using land-based resources, from medicinal plants to wood fuel.

A December report by Fahamu, a leading pan-African civil society platform, said that demands for territorial self-determination have re-emerged in Tanzania's largely Islamic island of Zanzibar, on the heels of news of new finds of extensive oil and natural gas reserves. These claims were supported by this author's interview with Edward Porokwo, the Executive Director of Pingos Forum, a well-known indigenous peoples' NGO in Tanzania.

With the referendum on the self-determination of Southern Sudan just a year away, 2009 saw increased military conflict in the oil-rich Abyei district, pitting the Sudanese People's Army (SPA) against the Sudanese People's Liberation Movement (SPLM). This led to the displacement of Dinka tribal communities. However, the decision of the Hague-based Permanent Court of Arbitration (PCA) in July 2009 brought some hope of an end to this conflict, when it delimited the borders of Abyei oil fields between the Dinka and Masseriya ethnic groups.

Legal progress?

While the above context paints a fairly grim picture of the human rights situation of minorities in 2009, the approach of African governments towards minorities seems to be slowly changing. A discourse that recognizes the existence of minorities is emerging, and this seems backed by attempts at resolving minority concerns through some limited consultation rather than by imposing predetermined solutions. For example, in 2009 Botswana held consultations with the Wayeyi minority group with a view to formulating solutions to the Wayeyi's historical exclusion from the House of Chiefs (a traditional governance structure that exerts enormous influence in informing state developmental priorities). The Botswana government also reported to the ACHPR that it was consulting with the San community to develop a more comprehensive framework for the community's access to the Central Kalahari Game

Reserve. This is in line with the 2006 decision of the Botswana Constitutional Court.

The use of legal approaches to facilitate resolution of some of the seemingly intractable challenges facing minorities received a further boost in 2009. Shell, the oil company, settled an alien tort claim instituted against it in the United States by Ogoni activists in Nigeria for the corporation's complicity in human rights violations. These included the environmental damage caused on Ogoni land by oil extraction operations. According to the BBC, Shell paid out US \$15.5 million in compensation for this claim. The Movement for the Survival of Ogoni People (MOSOP), a leading advocacy organization in the Niger Delta, welcomed the decision.

In April 2009, the ACHPR handed down its first decision in favour of the Endorois community in Kenya, recommending restitution of the community's ancestral lands in Lake Bogoria. This decision marked an important moment for the recognition of collective rights in the ACHPR's jurisprudence.

States are, in some cases, still failing to implement judicial decisions touching on indigenous land rights in Botswana (Miscellaneous Application No. 52 of 2002 *Roy Sesane and Anor v. The Attorney General of Botswana*, 2007), Uganda (Benet case, 2006) and Kenya (Civil Application 305/2004, *Rangal Lemaiguran and Others (on behalf of the Ilchamus) v. Attorney General*, 2008). But rather than be discouraged by this, minorities are increasingly using courts, and this provides a visible national and international platform for their grievances against the state, if nothing else.

New normative standards and institutional arrangements at the regional level in 2009 could, in the long term, engender greater realization of minority rights in Africa. These include the decision of the African Union's Assembly of Heads of State in Sirte, Libya, in July 2009 to adopt the Framework and Guidelines on Land Policy in Africa, which commit states to ensuring that land laws provide for equitable access to land, especially by the landless, women, youth, displaced persons and other vulnerable groups. Similarly, the African Union (AU) Convention for the Protection and Assistance of Internally Displaced Persons in Africa, adopted on 22 October 2009 in Kampala, Uganda, provides more protection for minorities, who are often internally displaced from their ancestral lands. As well as institutionalizing the role of the Special

Rapporteur on internally displaced persons, the Convention obligates states to 'prevent political, social, cultural and economic exclusion and marginalization that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion' (Article 1(b)). It also requires states parties to 'protect communities with special attachment to, and dependency, on land due to their particular culture and spiritual values from being displaced from such lands, except for compelling and overriding public interests' (Article 4(5)). The adoption by the African Court on Human and Peoples' Rights (ACHPR) of its first decision in *Michelot Yogogombaye v. The Republic of Senegal*, Application No. 001/2008, although criticized for delays, marked the end of the Court's ten-year hiatus and provides opportunities for the further litigation of minority rights. Unfortunately, only Burkina Faso has made the requisite Declaration accepting the right of individual petition to the Court, thereby limiting access thereto by aggrieved minorities except via the ACHPR.

Religious minorities

In 2009, the International Labour Organization (ILO) and ACHPR report, *The Rights of Indigenous Peoples in 24 African Countries*, noted that Africa today is a net importer of religious doctrine. Islam in the north and north-west and Christianity in sub-Saharan Africa have taken the place of or fused with pre-existing indigenous African religions. According to the 2009 Afrobarometer Working Paper (no. 13), traditional African religions in their pure form have declined from approximately 20 per cent of the sub-Saharan population since 1970. Clashes within one small sect of either Islam or Christianity, and the dominant facets of these faiths, are the hallmark of religious conflicts in Africa. Followers of Buddhism and Hinduism are largely made up of the immigrant Indian, Japanese or Chinese groups in the continent. By virtue of their non-proselytizing approach, these religions have remained fairly uncontroversial in Africa, in contrast to both Islam and Christianity. Recent research suggests that religious pluralism rather than homogeneity promote development and democracy, hence the need to emphasize protection for other faiths beyond the dominant Islam and Christianity. As evidence from 2009 shows (see country sections below), the rights of religious minorities in Africa need better protection. Although

Special report

Statelessness and religious minorities in Africa

Citizenship establishes the scope of rights and responsibilities provided to an individual within a state. Many people cannot claim a nationality or citizenship because they lack official proof of birth or are incapable of satisfying the high thresholds of connection with the state established under national laws. These individuals are denied rights associated with citizenship, and hence become stateless. According to the International Observatory on Statelessness, a European academic think-tank, 'Statelessness issues appear in all regions of Africa, often affecting ethnic or religious minorities considered to be "non-indigenous" to the country at hand or groups with historical or cultural ties elsewhere.' Statelessness also arises in countries that do not permit female citizens to pass nationality to their children.

According to scholar Bronwen Manby, significant populations of concern include 3.5 million in Côte d'Ivoire who lack identity documents; 110,000–155,000 Sahrawis taking refuge in Algeria, who have been stateless for 32 years; and hundreds of thousands of children in Egypt with non-Egyptian fathers.

Religious minorities in Africa are arguably more likely than other groups to experience the problem of statelessness. The situation of the Nubians in Kenya and of the Baha'is in Egypt is a testament to this proposition. It can also be argued that the challenges facing minority communities in Kenya's North Eastern and Coast provinces in procuring identity documents are compounded by their Islamic faith. For instance, the arbitrary arrests of 18 Kenyan Muslim young people in March 2009 and



their rendition to Ethiopia to stand trial for terrorism offences on the grounds that the youths were non-nationals attracted the ire of civil society in Kenya. In response, the Kenyan state established the Presidential Action Committee to Address Specific Concerns of the Muslim Community in Regard to Alleged Harassment and/or Discrimination in 2007. In its July 2009 report, the committee raised concerns about, among other things, the arbitrary arrests of Muslims based on their religious dress.

The Nubian community has been present in Kenya for about 100 years. Many live in harsh conditions of poverty and deprivation in the Kibera slum in Nairobi. Before 2009, when Nubians were finally recognized in the national population census process, to be a Nubian and a Muslim in Kenya amounted to membership of a non-Kenyan identity. Despite this recognition, however, they continue to suffer from citizenship-based discrimination. Isa Abdul Faraj, the Chair of the Nubian Council of Elders informed this author in November 2009 that the bulk of Nubians experience obstacles to their application for citizenship in Kenya immediately upon disclosing their names, most of which are Arab and identify them as Muslim. Such designation instantly results in more documentary evidence being required to sustain an

Above: Nubian women and a child in Kenya. Nubians continue to have difficulty in getting access to National ID cards, employment and education. *UNHCR/G. Constantine.*

individual's citizenship claim. This practice is in sharp contrast to the treatment of other ethnic and religious groups in Kenya, whose pursuit of identity documents is *prima facie* successful, even when documentary proof is lacking. According to an April 2009 Forced Migration Review report, for the Nubians, the length of time required to obtain citizenship documents, if they succeed at all, ranges from 5 to 10 years, since most of them have to be screened by a vetting committee. The report states that, prior to 2009, the committee was comprised mainly of non-Nubians. Almost 50 per cent of Nubians still have no documents to prove their citizenship, resulting in their *de facto* statelessness.

In Egypt, the government requires all identification papers to list religious affiliation but restricts the choice to the three officially recognized religions: Islam, Christianity and Judaism. Baha'is are thus unable to obtain identification papers because they refuse to lie about their religious affiliation.

The Baha'i World News Service, a pro-Baha'i

news agency based in Haifa, Israel, reported in 2009 that without national identity documents, Baha'is and others caught in the law's contradictory requirements are deprived of a wide range of citizenship rights, such as access to employment, education, and medical and financial services.

'Employers, both public and private, by law cannot hire someone without an ID, and academic institutions require IDs for admission. ... Obtaining a marriage licence or a passport requires a birth certificate; inheritance, pensions, and death benefits are contingent on death certificates. The Ministry of Health has even refused to provide immunizations to some Baha'i children because the Interior Ministry would not issue them birth certificates accurately listing their Baha'i religion.'

In its 2009 report, international NGO Human Rights Watch (HRW) gave evidence of the pervasive nature of religious discrimination against the Baha'is in Egypt. With reference to court cases in Egyptian administrative tribunals, HRW highlighted the religious persecution, exclusion and state failure to protect Baha'i religious liberties. However, HRW cites two cases where discrimination based on the religious identity of Baha'is was successfully contested in 2009. The first involved a lawsuit by the father of twin children, who sought to obtain proper birth certificates for them. The second concerned a college student, who needed a national identity card to re-enrol in university but could not obtain it as a Baha'i unless he falsified his religious identity. In both cases, the court provided a compromise in which members of the Baha'i religion were allowed not to disclose any religious affiliation in their identity application documents. These decisions depart from an initial decision of the Egyptian Supreme Court that had dismissed the Baha'i discrimination claim in December 2006. ■

religion often provides an important platform to mobilize groups in order to contest structural marginality, violent extremism has unfortunately also become endemic. Furthermore, many religious minorities suffer the extra discrimination of being stateless, which exacerbates their marginalization from generation to generation.

Algeria

According to the Algerian Constitution, Islam is the state religion. The Constitution guarantees freedom of conscience and proscribes discrimination. While the law (Algerian Family Code I.II.3) does not recognize marriages between Muslim women and non-Muslim men, it does however recognize marriages between Muslim men and non-Muslim women. By law, children follow the religion of their fathers, even if they are born abroad and are citizens of their (non-Muslim) country of birth. Section 4 of the Algerian Criminal Code provides that 'any damage or desecration of the Holy Book (Quran) is punishable by 5 to 10 years in prison'. While in most cases it is non-Muslims that suffer deleterious effects from the Islamization of the law in Algeria, indigenous people too, especially women, are negatively impacted. For instance, according to the 2009 report of the NGO the International Work Group for Indigenous Affairs (IWGIA), women from the Amazigh minority 'suffer the weight of tradition and of the Family Code which draws full inspiration from Islamic (Sharia) law [and] places women in a subordinate position'. This discrimination exists in spite of the Amazigh community's demographic strength: about 30 per cent of the Algerian population.

In theory, missionary groups belonging to the Christian faith are permitted to conduct humanitarian activities without government interference as long as they are discreet and do not proselytize openly. But according to the US International Commission on Religious Freedom (USCIRF) *Annual Report 2009*, at least 12 Christians and converts to Christianity from Islam were prosecuted on charges of breaching Ordinance 06-03. This 2006 government law regulates faiths other than Islam.

USCIRF also presented evidence of instances in which converts to Christianity have suffered persecution in the recent past in Algeria. They include a woman, Habiba Kouider, a convert from Islam, who was arrested and charged in March 2009 after police found copies of the Bible in her bag. The

Association for Women's Rights in Development (AWID), a Canada-based international women's rights organization, reported that a court in Biskra, southern Algeria, also sentenced 26-year-old woman, Samia Smets, to 10 years' imprisonment for allegedly having violated the Qur'an. The same court was reported to have convicted six men for eating during Ramadan, the Islamic period of fasting.

Botswana

Setetse Ian Khama retained the presidency in 2009, in elections that were deemed free and fair by electoral observers. Such relatively successful elections belie the homogenizing policy of the Botswana government that continues to impose the Tswana identity on all Botswana communities. As MRG reported in 2009, the chieftaincies based on Tswana identity deepen Tswana domination, while seriously undermining the identity, including religions, of other minorities. In the struggle against perceived Tswana privilege, Wayeyi and other minorities have appealed to the courts, as well as the ACHPR. What the government likes to portray as an ethnically homogeneous land is actually a multicultural country, with about 45 ethnic groups speaking about 26 different languages.

Minority rights advocacy organizations in Botswana continue to contest the constitutional provision that only eight ethnic groups are capable of nominating representatives to the House of Chiefs. Consequently, other groups, numbering over 36, feel that their language, culture and religions have come under threat because of the prevailing Tswana hegemony.

State resistance to an approach that is more respectful of minority rights was evident in Botswana's inaugural report to the ACHPR in November 2009. In his submission to the Commission, the Minister for Justice, Defence and Constitutional Affairs reported that the state had not implemented the court's decision of 2006 to allow the Basarwa tribe to return to the Central Kalahari Game Reserve (CKGR). He argued that the court's ruling presented 'impracticable solutions', but asserted that dialogue was ongoing between the state and the Basarwa community, to ensure that the community benefits from revenue from the park through creation of their own eco-tourism lodges within the CKGR. He said that Basarwa will be trained and allowed to run eco-

lodges on condition that they desist from supporting game hunting. Meanwhile Survival International, a UK-based NGO, accused the Botswana government of issuing 112 mining licences on Basarwa land since their evictions, raising doubts about the government's intention to make the Basarwa co-owners in the mining and tourism wealth generated from CKGR. Such mining has been condemned as unethical by the Bench Marks Foundation, an ecumenical corporate accountability organization, the UN news agency IRIN reported in September 2009.

In March 2009, on a country mission to Botswana, James Anaya, UN Special Rapporteur on the rights and fundamental freedoms of indigenous peoples, witnessed how the exclusion of indigenous Basarwa and other minorities from 'the design and implementation of the Government development initiatives affecting them' affected the cultural diversity and identity of these communities. He observed that this approach ultimately impeded government programmes. Indeed, the present development paradigm on the part of the Botswana government runs counter to its own *Framework for a Long-term Vision of Botswana* (Vision 2016), which obliges the government to ensure the recognition of diversity and engage in the promotion of minority cultures.

In contrast to the lack of respect for ethnic diversity, the Botswana government has maintained a fairly liberal attitude towards religious diversity. According to the official website of the Botswana government, of the estimated 70 per cent of citizens who identify themselves as Christians, most are from the Anglican, Methodist and United Congregational Church of Southern Africa. These groups coexist with minority Christian groups such as Lutherans, Roman Catholics, the Church of Jesus Christ of Latter-day Saints (Mormons), Seventh-day Adventists, Jehovah's Witnesses, Baptists, the Dutch Reformed Church and Mennonites. Muslims, primarily of South Asian origin, who number slightly more than 5,000, as well as smaller groups of Hindus and Baha'is, enjoy equal treatment with other faiths. USCIRF reported that representatives of Baha'i, Christian, Hindu and Muslim communities came together in April 2009 to form and register an official interfaith council to discuss religious issues and promote interfaith dialogue.

Burundi

It is noteworthy that Burundi's current Constitution uses the terms 'minority groups' quite explicitly to

include ethnic, cultural and religious minorities, and recognizes that their substantive inclusion is a prerequisite to good governance and national security. By linking minority rights protection with good governance and safety of the state, the Constitution places such rights on the same level as other major national concerns and pursuits.

The Constitution further provides, in Articles 143, 164 and 180 respectively, for proportionate ethnic representation in public enterprises, the National Assembly and the Senate. The explicit mention of Batwa as beneficiaries of this ethnic quota constitutes the highest level of identification for this ancient hunting and gathering community in central Africa. With three seats in the National Assembly and in the Senate, as well as a representative in the National Commission for Land and Other Assets, Batwa visibility in public processes has marginally improved, IWGIA reported in 2009. But despite such recognition, stereotyping and the marginalization of Batwa people continues, resulting in their weak involvement in public life. According to the 2009 report of the NGO Forest Peoples Programme (FPP), Batwa rarely attend political or religious gatherings. Most land traditionally held by Batwa has been annexed by dominant communities with state concurrence, leaving most Batwa as squatters and consigning many to a life of bonded labour.

Discrimination against Albinos is prevalent in Burundi. At least 12 Albinos in the eastern Burundian provinces of Cankuzo, Kirundo, Muyinga and Ruyigi, on or near the border with Tanzania, were killed in 2009 according to a November Red Cross report.

Central African Republic

The Preamble to the 2004 Constitution of the Central African Republic (CAR) emphasizes that CAR is a state that guarantees security of persons and property and protects the most vulnerable, minorities in particular. USCIRF reported that, in spite of constitutional prohibition of discrimination, indigenous groups experienced multiple cases of discrimination with regard to the right to property, natural resources and citizenship. The report specifically noted that there is:

'societal discrimination against Pygmies (Ba'Aka and Baininga)... They continued to have little say in decisions affecting their lands, culture, traditions, and the

allocation of natural resources. Forest-dwelling Ba'Aka, in particular, were subject to social and economic discrimination and exploitation, which the government has done little to prevent. Despite repeated promises, the government took no steps to issue and deliver identity cards to Pygmies, lack of which, according to many human rights groups, effectively denied them access to greater civil rights.'

The CAR, however, appears to be taking some steps to ameliorate the challenges faced by minority and indigenous groups. With support from the UN Office of the High Commissioner for Human Rights (OHCHR) and the ILO, the government has sought to enact legislation that provides for affirmative action for minorities, similar to the law adopted in 2007 by the Republic of Congo. These efforts failed to bear fruit in 2009. In 2008, CAR adopted a National Plan for Education for All, to increase access to education from 10 per cent to 80 per cent for 'minority groups' ('Pygmy', Mbororo and handicapped children and children living in mining areas). However this policy has yet to be implemented.

The CAR Constitution provides for freedom of religion, although it prohibits what the government considers to be religious fundamentalism or intolerance. USCIRF 2009 reported that the government generally respected religious freedom in practice.

USCIRF further reported on the state's continued ban since 2007 of Eglise Jehova Sabaot, an African independent church, on the basis that its leadership was involved in various criminal operations. Although Eglise Jehova Sabaot public worship has been derailed by this closure, members continued to meet at private residences with little state interference.

Chad

Discrimination against minorities in Chad continued, despite the government's adoption of a law in 2006 that includes the promotion of tolerance and respect for other cultures as one of the objectives of the educational system, the ILO and an ACHPR 2009 report said. The Peul minority, a nomadic cattle-breeding group constituting about 250,000 of Chad's 10 million population, experienced continued stereotyping in 2009. A 2009 report in *Indigenous Affairs* journal stated that Peul girls are most discriminated against and stereotyped

in schools due to the allegation that they 'stink' of milk/butter, hence others do not want to sit next to them. Peul women are marginalized by an internal and external cultural context that does not incorporate them into decision-making structures, the report said.

More than half of Chad's population is Muslim, approximately one-third is Christian, and the remainder follows indigenous religious beliefs or has no religion. Most northerners practise Islam, and most southerners practise Christianity or indigenous religions. However, population patterns are becoming more complex, especially in urban areas.

Whereas the Chadian Constitution provides for freedom of religion, the government has proscribed certain Muslim groups on the grounds of extremism. The African News Agency (AFROL) reported in 2009 that Chadian troops killed 72 followers of a Muslim spiritual leader in Kouno, 300 km south-east of N'Djamena, Chad's capital city. The Islamic leader had threatened to launch a 'Holy war' in defence of the Islamic faith and to fight corruption.

Democratic Republic of Congo

The vulnerable situation of minorities, including that of the Batwa or Bambuti Pygmies, in the DRC in 2009 was compounded further by major armed conflict, including in the Kivus and in the north-east. An agreement between the governments of the DRC and neighbouring Rwanda led to joint military operations in the Kivus at the start of the year targeting the Forces démocratiques de libération du Rwanda (FDLR), a Hutu power group. Renegade Congolese general Laurent Nkunda was detained on the Rwandan border and his forces of the Congrès national pour la défense du peuple (CNDP) were rapidly integrated into the Congolese army. With logistical support from the UN mission, the Congolese army launched a new operation against the FDLR, Kimia II, which continued for most of the year, leaving hundreds of thousands displaced.

As part of this conflict, some members of the Batwa/Bambuti minority community in the DRC have suffered torture, burning of their houses and killings, and have experienced a particularly high incidence of rape and extreme sexual violence. Two investigation missions undertaken by MRG and its partner organization the Réseau des associations autochtones pygmées (RAPY) in March and September revealed a pattern of repeated displace-

ment, expropriation and violence against Bambuti communities throughout North and South Kivu, perpetrated both by the FDLR and by Congolese armed forces.

The elusive Lord's Resistance Army (LRA), an insurgency group that originated in northern Uganda in the 1980s, attacked dozens of villages and towns, mostly between December 2008 and January 2009, in the far north-east. Around 1,100 civilians were killed, hundreds abducted and close to 200,000 displaced, according to Alan Doss, head of the UN Mission in DRC (MONUC).

In its consolidated Eighth, Ninth and Tenth Periodic Report considered by the ACHPR during its 46th Session in November 2009, the DRC conceded interfering with the exercise of religious freedom in order to protect public interest. For instance, it reported suspending the activities of Pastor Kuthino Fernando's Victory Army Church for burning the Qur'an live on television.

In recent years, DRC has witnessed the mushrooming of many evangelical Christian sects, many with massive support from the global Christian community. Pastors of these sects implore their congregations to submit to divine providence, casting the solution to DRC's social and political challenges to God and not human agency. While such an approach is soothing to the political establishment, an attempt by religious organizations to challenge corruption and maladministration is met with repression and killings. In 2006 Bundu Dia Kongo (BDK), an Africanist spiritual movement established in 1986 by Ne Muanda Nsemi, mobilized traditional Kongo beliefs, recovered ancestral ways of self-governance and attracted national attention when its supporters began to clash regularly with police. The exchanges were exceptional for the extraordinary persistence on the BDK side, and the unwarranted brutality and unprecedented use of lethal force by state security forces. Independent reports by the UN and HRW suggest that several hundreds of unarmed BDK supporters were massacred. Congolese authorities, however, continued to label BDK a 'terrorist group' and maintained that the death toll from the clashes was around 30 persons. In March 2008, police made a pre-emptive strike, killing 200 BDK members in anticipation of further protests. The UN Mission in DRC considered the killings a deliberate effort to wipe out the BDK movement.



Left: Coptic boys sell posters from a street stall during the Coptic festival Mould of Mari Girgis near Luxor, Egypt. *James Morris/Panos.*

Consequent upon these systematic attacks on religious freedoms, Eritrea was designated one of the eight 'countries of particular concern' for serious violation of religious freedom by the US Commission. USCIRF also stated in 2009 that 'the government has also interfered with the Catholic Church, taking over church schools, health clinics, and other social service facilities. Since November 2007 it has expelled at least 14 foreign Catholic missionaries by refusing to extend their residency permits.'

Over 3,000 members of unregistered churches have been incarcerated in Eritrea since 2005 and many have been beaten or otherwise abused to compel them to renounce their faith, HRW's 2009 *World Report* said.

The use of torture to repress religious expression is widespread. Almost 3,000 of the estimated 20,000 Eritrean prisoners of conscience are Christians. According to a 2009 report in the UK national newspaper, *the Guardian*, they were detained pending denial of their faith.

Ethiopia

On paper, the 1995 Constitution of the Federal Republic of Ethiopia is an example of what a constitution protective of minorities in a multicultural African society should look like. The lived reality of minorities in Ethiopia in 2009, however, is a study of exclusion and oppression, suggesting that a good constitution on its own does not offer solace to minorities unless it is anchored within a supportive political culture and institutional frameworks.

According to an International Crisis Group (ICG) September 2009 report, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) policy of ethnic federalism has not dampened conflict, but rather increased competition among groups that vie over land and natural resources, as well as administrative boundaries and government budgets. 'The EPRDF's ethnic policy has empowered some groups to the disadvantage of others, deepening the sense of communal grievance that pervades the country ... [and] powerfully promoted ethnic self-awareness among all groups,' the report said.

Amnesty International (AI) reported that in 2009, 'legislation and other forms of regulation were fre-

quently used to restrict the work of civil society and the media'. The Charities and Societies Proclamation Law was adopted on 6 January by parliament. This new law criminalizes human rights activities by foreign NGOs and by Ethiopian organizations that receive more than 10 per cent of their funding from abroad; imposes disproportionate penalties for minor administrative breaches of the law; and allows government interference in the operation and management of civil society organizations. NGOs such as the Pastoralist Forum of Ethiopia, the leading lobby for pastoralists' rights in the country, which depends on international funding to carry out its economic empowerment and governance reform programmes, will be adversely affected.

Ethiopia presented its Article 62 Report during the 46th Session of the ACHPR in November 2009. The delegation presenting the periodic report argued that the Constitution only recognizes 'nations, nationalities and peoples' and makes no mention of indigenous peoples or minorities. This understanding of minorities falls short of international standards as expressed in paragraph 5.2 of General Comment 23 on Article 27 of the International Covenant on Civil and Political Rights (ICCPR): 'The existence of an ethnic, religious or linguistic minority in a given state party does not depend upon a decision by the state party, but requires to be established by objective criteria.'

In contrast to Eritrea, Ethiopia showed relative tolerance for religious diversity, allowing the majority Ethiopian Coptic Church to coexist with other Christian and Islamic faiths. USCIRF reported that in 2009, minority religious groups, including Jehovah's Witnesses, Jews, members of the Church of Jesus Christ of Latter-day Saints (Mormons), animists and practitioners of indigenous religions:

'occasionally complained of discrimination in the allocation of land for religious sites. Protestants reported discrimination in treatment and access by local officials when seeking land for churches and cemeteries. Local authorities refused to grant land to Muslim leaders to build mosques.'

Kenya

The 2007/08 post-electoral violence was marked by fratricidal ethnic conflict. Since then, the coalition government established in 2008 has held together and attempted to heal the fractured sense of civic trust. But the sheer scale of displacement, accompa-

Egypt

The year 2009 saw Egypt joining with the USA to sponsor a resolution before the UN Human Rights Council (HRC) that sought common ground between proponents of a prohibition on 'defamation of religion' and free speech advocates. However, the country did not fare better in ensuring the protection of religious minorities within its territory.

Alongside Baha'is, whose discrimination has been discussed above, Copts also continue to suffer religious persecution. In June 2009, the Catholic Online, the official online news source of the Catholic Church, reported that hundreds of young Coptic girls, including many under-age, have been kidnapped, raped, forced to convert to Islam and marry Muslim men. Egypt's 12 million Copts comprise about 15 per cent of the population. According to the report, Christians who want to convert to Islam are welcomed with open arms, while Muslims who would like to convert to Christianity are usually imprisoned and tortured. Out of 444 representatives, Egypt's parliament has just two Coptic elected representatives, one of whom was disqualified for holding dual citizenship.

Eritrea

Eritrea's social-political life remained highly

state-controlled in 2009. HRW reported that the government has failed to implement the outcomes of the 1997 referendum that would have ushered in a new constitution, hold competitive elections or re-open the independent interim parliament suspended since 2002.

The government issued permits only to Orthodox Christian, Catholic and Lutheran churches, and Muslim communities, to practise their religion. While the recognized religious groups are allowed to operate, they too have not been spared. In 2006, for instance, the government forced out the patriarch of the Eritrean Orthodox Church after he refused to interfere with a movement to reform the church and he remains confined to date. In 2008 the government revoked the exemption from military service for most Orthodox priests. USCIRF said that:

'In January 2009 the government reportedly carried out countrywide arrests of influential Muslims, describing the 60 Muslims arrested as "radical Islamists." Early in 2009, the government also began confiscating vehicles marked with license plates designated for religious groups. The mass confiscation severely limited the abilities of the religious groups to perform daily tasks.'

nied by the worst drought in years, and economic downturn exacerbated by global recession in 2009, has frustrated the government's efforts, according to an October 2009 report by the Kenya National Dialogue and Reconciliation Monitoring Project.

In 2009, the Kenyan government established key institutions identified in the National Accord and Reconciliation Act of 2008 to reform the electoral and boundaries system, finalize the writing of a new constitution and roll out a national programme of healing and reconciliation. The establishment of a Commission on Integration and Cohesion and the Truth, Justice and Reconciliation Commission (TJRC) in early 2009, and the appointment of the Commissioners, are particularly indicative that the state no longer wishes to sweep the problem of ethnic discrimination and historical injustices under the carpet. While these institutional arrangements provide opportunities for the better understanding of minority rights, none of them have come up with explicit strategies for ensuring substantial involvement of minority communities in their processes.

The government, in spite of the decision of the African Commission on the Endorois case (see above) that asserted the rights of a minority community to self-determined development, has persisted in its approach to national development without due regard to the rights of minorities and indigenous groups enshrined in various international and regional human rights instruments. For instance, in pursuing an important national project to conserve the Mau forest, a water catchment area that serves the entire East African region, the government's strategy is to carry out massive evictions of all persons accused of encroaching on the forest. While the need to conserve the Mau forest is important, the government's handling of the Ogiek community, which for centuries has utilized this environment in a sustainable fashion and which claims this forest as its ancestral land, has been less than satisfactory. Speaking to the *New York Times* in November 2009, Daniel Koei of the Ogiek Peoples Development Programme (OPDP), said the Ogiek will suffer irreparable violations of their right to life and cultural survival, among others, if evicted alongside recent forest squatters.

Similarly, the Nubian community, which for 100 years has occupied Kibera slum, were neither consulted about, nor have they benefited from,

the slum upgrading project, an important national initiative. In the same vein, the search for national solutions to the energy crisis facing the country, has resulted in the drilling of massive geothermal wells in Olkaria, with the Maasai community inhabiting this part of the country suffering deleterious environmental effects.

The Kenyan Harmonized Draft Constitution released on 17 November 2009 has strong language that recognizes minorities both at the national level and at the three levels of proposed devolved government (county, region and states) proposed by the Draft. The Draft, like the current Constitution, grants the minority Muslim religion its adjudicative mechanism, the Kadhi courts, and empowers it to determine personal matters between two consenting Muslims subject to the supervision of the High Court. This proposal has angered Christian groups, particularly the Pentecostals and evangelical groups under the banner of the National Council of Churches. Consequently, on this ground alone, the Kenyan Church has threatened to mobilize its members to vote against the Draft Constitution when it comes to the referendum in June 2010. The debate between the two communities has focused around the Kadhi courts and the constitutional review, and allowed extreme elements from both sides to speak out with great vehemence.

For the first time since independence, the Kenyan cabinet adopted a draft land policy which established community land tenure to replace the highly discredited trust land system that has been highly disadvantageous towards minorities. This draft policy has been presented to parliament and adopted as Sessional Paper No. 3 of 2009. Already it appears that the implementation of this policy will be strongly resisted by lobby groups, particularly the Kenya Land Owners Association, which works with large-scale land holders, most of whom own ranches in the largely pastoralist districts of Laikipia, Naivasha and Kajiado.

Harmful practices against minority women, especially female genital mutilation (FGM), continued among pastoralists in northern Kenya and parts of the Rift Valley. In spite of legal prohibition against the practice, the government has failed to ensure its effective monitoring, thereby weakening the deterrent effect of the law. In July 2009, 300 girls were reported to have gone through FGM in Marakwet district in North Rift, the *Daily Nation* said.

Muslims in Northern Kenya purport to circumcise girls in order to comply with Islam.

Mali

The government of Mali has struggled to end the conflict with Tuareg people, a nomadic minority who have periodically taken up arms demanding greater rights for their people, including political autonomy. Intensive oil exploration by Chinese and Australian firms ongoing in northern Mali, have heightened Tuareg demands for equity in natural resource exploitation in their territory. The Jamestown Foundation, a Washington-based independent think-tank, reported in 2009 that, while the July 2006 Algiers agreement calling for greater government efforts in developing the northern regions of Gao, Timbuktu and Kidal in return for Tuareg abandoning their demands for regional autonomy has resulted in substantial surrender of arms, conflict still remained.

According to AI, in 2009 the difficult economic conditions in the country saw protests organized against the rise in the price of basic commodities and against plans to privatize the supply of water in Lere, in the north-west of the country occupied by Tuareg. At least six people were injured in November 2009, one of whom died later in hospital, when security forces shot at the demonstrators. Mali's response to economic challenges in the country further accentuate Tuareg grievances against the state.

NGOs have reported that Mali displays a high degree of religious tolerance towards minority groups. Aid to the Church in Need, a Catholic charity said in its 2009 report on religious liberty that, 'no legal obstacles to conversion from one religion to another' exist in Mali, and Christians are free to preach without fear of persecution. USCIRF 2009 noted that members of the same family in Mali can adhere to different faiths and 'that followers of one religion attend religious ceremonies of other religious groups, especially baptisms, weddings, and funerals'.

Mauritania

Islam is constitutionally decreed the state religion in Mauritania; much of the Mauritanian population practises Sunni Islam. Proselytizing by non-Muslims and the printing and distribution of Bibles and other non-Islamic religious materials is explicitly prohibited in the country. Privacy is respected, how-

ever; hence the mere possession of Bibles and other Christian literature at home is by itself not illegal. Non-nationals who are mainly Roman Catholic and live in and around the capital, Nouakchott, are able to practise their religion. A small number of Jewish expatriates practise their religion, although they do not have a synagogue.

In 2009, AI reported that hundreds of migrants, believed to be heading to Europe, were arbitrarily arrested and detained in Mauritania. 'Many were detained in inhuman conditions and ill-treated before being expelled, frequently not to their countries of origin and without being able to challenge the expulsion decision,' the report said.

Mauritania has in the past been censured by the ACHPR for arbitrary expulsion of black Mauritians on racial grounds. These expulsions, which took place in 1989 and 1990, saw some 75,000 people expelled. By July 2008, only 4,500 of the deportees had been repatriated to Mauritania through the technical and material assistance of the UNHCR and with the cooperation of the state, scholar Bronwen Manby reported in 2009. Since the 2008 coup, the repatriation programme has stalled.

Namibia

In November 2009, Namibia held its fourth multi-party elections since the end of South Africa's domination two decades ago. While the South West Africa People's Organization (SWAPO) won a comfortable majority, there is increasing pressure for it to carry out bold programmes of land reform, Reuters news agency reported.

Namibia is a predominantly Christian country. Ten per cent of its 2.1 million citizens practise indigenous beliefs. The Legatum Institute (a UK-based think-tank) ranked Namibia 63rd out of 104 countries in its Prosperity Index in 2009. However, the relative prosperity of Namibian individuals did not seem to favourably influence state and non-state treatment of minorities in 2009. While the conservancy system in Namibia allows communities to manage rural areas as 'protected areas', where they are still allowed to carry out traditional economic activities including hunting and gathering, this has not necessarily improved the lot of minorities. The Indigenous Peoples of Africa Co-ordinating Committee (IPACC) reported in 2009 that, for instance, Khwe, a San-speaking

community, are not recognized as an ethnic group by the central government and hence lack political representation in government. The absence of a singular traditional authority is the reason given for this denial of the right to representation. While the Constitution of Namibia as implemented through the Communal Land Reform Act of 2002 grants traditional chiefs unfettered authority over communal land, it denies San people recognition of their traditional authority, hence by implication curtailing their land rights. The result is often conflict with other communities. A July report in daily newspaper *The Namibian* said that conflict arose in Nyae Nyae between cattle farmers wishing to use the conservancy land and Ju/'hoansi who are preserving and conserving the area – and who depend on it for their survival. The situation continued to seriously threaten the livelihoods of Ju/'hoansi San people in their ancestral land as well as the diverse wildlife found in the area, including a number of endangered species, the report said.

In August 2009, *The Namibian* reported that the Legal Assistance Centre (LAC), a Namibian community organization, condemned the exploitation of the Himba minority by a Swedish reality TV show, whose depiction of the community was condemned as 'derogatory' and in contravention of the principles of the UN Declaration on the Rights of Indigenous Peoples. (UNDRIP)

In 2008, the UN Committee for the Elimination of Racial Discrimination (CERD) expressed concern about the high incidence of rape of San women by members of other communities, and recommended the launch of investigations. The Namibian state has yet to carry out any proper investigations to address gender-based violence perpetrated against San women.

Nigeria

Nigeria is a diverse country of 250 ethnic groups. Managing these complex differences, which are often reinforced by religious divisions, is a significant challenge to the state. Social and political grievances have abounded since independence from Britain in 1960, often leading to serious conflicts.

In May 2009, clashes between the Joint Task Force (JTF) set up by the Nigerian government to combat kidnappings by armed groups in Delta State, in the south-west of Nigeria, led to two weeks of fighting between the JTF and militia groups. AI

reported land and air strikes by the JTF on militia camps and communities across the Warri South and South-west local government areas in Delta State, including the Ogoni minority community, leading to a virtual occupation of the area by the JTF for several months. 'When residents were finally able to return in August 2009, most found their houses destroyed, worsening their already imperiled living conditions, but also raising questions on the proportionality of the government offensive against the militia groups,' the report said. These large-scale forced evictions were carried out despite previous government assurances that no evictions would take place. There were reports that some state officials asked for bribes to protect villagers' property from demolitions. The compensation paid has similarly been criticized as inadequate or non-existent, according to AI.

Nigeria's 140 million people are nearly evenly divided between Christians, who predominate in the south, and Muslims, primarily in the north. In July 2009, four days of rioting was ignited by Boko Haram, an Islamic sect opposed to Western education, medicine and values in Borno, Kano and Yobe, in northern Nigeria; 800 people (mainly Boko Haram supporters and three Christian pastors) were confirmed killed. The rioting, which initially targeted police and government bases, also led to extensive property losses, including the destruction of government installations, according to a July report by the BBC.

Sharia (Islamic law) is already in force for Muslims in 12 northern states, but the sect is fighting to have it enforced more broadly in those states and to impose it throughout Nigeria, the BBC said. Twenty churches, police stations and prisons were burned before police captured Boko Haram's leader, Mohammed Yusuf. He was killed in detention. According to news agency Al-Jazeera, the attacks had been in alleged retaliation for the burning of two mosques by Christian groups.

The disproportionate use of force by the Nigerian military police against Boko Haram has been criticized, however. This conflict came on the heels of another religious conflict in Jos ignited by political differences. In November 2008, more than 700 people were killed in Jos, the capital of Plateau State, when a political feud over a local election degenerated into bloody confrontation between Christians and Muslims. Violence erupted again in early 2010.

Rwanda

A new law criminalizing 'genocidal ideology' was promulgated on 1 October 2008 and began to be implemented in 2009. The terms of the crime are ambiguously expressed; however, the offence is punishable by 10 to 25 years' imprisonment. The intention of this law has been questioned by many international organizations, including the NGO Article 19. It is feared that the law is an instrument for stifling freedom of expression and limiting political space for those opposed to the current government. In December 2009, Rwandan opposition presidential candidate Bernard Ntaganda was summoned to answer charges under the law at a Senate committee inquiry. He denied promoting genocide ideology and ethnic 'divisionism'. While government sensitivities to the use of ethnic differences are understandable given the 1994 genocide perpetrated against the Tutsi minority, the state's ethnic policy may also conceal hierarchies and discrimination against vulnerable minorities such as the Batwa and women from minority groups.

While Rwanda's 1994 conflict pitted the Hutu and Tutsi ethnic groups against each other, MRG has reported that Rwanda's minority Batwa population also suffered mass killings. But they were not recognized in post-conflict reparations frameworks in Rwanda. In May 2009 the UN Human Rights Committee, in its concluding observations on Rwanda's Periodic Report, raised concerns about the non-recognition of the existence of minorities and indigenous peoples in Rwanda, as well as reports that members of the Batwa community are victims of marginalization and discrimination.

Rwanda's religious minorities have also suffered some discrimination. USCIRF reported in 2009 that members of Jehovah's Witnesses continued to be detained by local authorities. Seventeen were arrested and imprisoned for up to one week after they declined, for religious reasons, to participate in night patrols – a community policing response to crime. However, judges ruled in 2005 that members of the faith were not required by any law to take part in the patrols.

Government officials presiding over wedding ceremonies generally require couples to take an oath while touching the national flag. Jehovah's Witnesses object to this on religious grounds, making it difficult for its members to marry legally. Some find placing their hands on a Bible on top of the flag is an acceptable alternative.

Somalia

In January 2009, following UN-sponsored peace talks, an agreement between Somalia's Transitional Federal Parliament (TFG) and the Djibouti-based wing of the opposition Alliance for the Re-Liberation of Somalia (ARS-Djibouti) was signed. A Government of National Unity was formed and parliamentarians elected a new president, moderate Islamist Sheikh Sharif Ahmed. The peace agreement also led to the withdrawal of Ethiopian troops from the country.

However, radical Islamist opposition groups such as Al Shabab and Hizb-al-Islamiya continued to fight. The African Union's peacekeeping force (AMISOM) was targeted and on 22 February a suicide attack against an AMISOM base killed 11 Burundian soldiers. On 20 February, President Ahmed offered to introduce Sharia law in exchange for a truce. However, in April and May, fresh fighting in and around Mogadishu led thousands to flee in a new wave of displacement. According to the Norwegian Internal Displacement Monitoring Centre, up to 1.3 million Somalis remained displaced in early 2009.

Al Shabab captured most parts of the country including Mogadishu and the south and central regions. Civilians continued to be indiscriminate victims of the conflict. MRG field research in 2009 found minorities, including children, were recruited to fight by Al Shabab forces. Al Shabab imposed a harsh version of Islamic law in areas it captured. MRG research found that informal Sharia courts were imposing penalties of amputation and stoning. AI said that there were several public executions, including the stoning of a 13-year-old girl in Kismayu. Some reports said she was a member of the Tumul minority. In Brava, Al Shabab forces destroyed Barawani shrines, desecrated tombs and detained sheiks for several days.

Many killings targeting Christians occurred in 2009. According to Christian news agency Compass Direct, in September Omar Khalafe, 69, was shot dead by Al Shabab fighters at a checkpoint near Merca, after he was found with 25 Bibles in Somali in his possession. USCIRF reported that Christians keep a low profile, only worshipping in house churches. Converts to Christianity have also been attacked.

The impact of increasing Islamic fundamentalism on women in Somalia is clear. In April, CNN

reported that Al Shabab ordered women in Baidoa to cover their bodies and heads from view or risk a jail term, and prescribed the specific colours for such clothing. It is not clear yet how this order has affected women from minority groups in the country, but it curtails women's right to privacy and bodily integrity. Speaking to the *New York Times* in September, President Ahmed indicated that most Somali women already wear such veils.

Somaliland

Regions that had begun to show signs of pursuing a path of sustainable change faltered in 2009. The Somaliland Republic in Hargeisa failed to conduct scheduled elections. Despite generally greater awareness and implementation of minority rights compared to the rest of the country, progress was limited in 2009 by government inaction and the persistence of negative social attitudes towards minorities among members of the majority clans. Access to justice remains difficult for minorities, who include Yibro clan peoples and the Gaboye occupational group. Political participation is also an issue. However, extreme anti-minority views are rarely heard in public; and where they are, they are criticized by the mainstream media.

Intermarriage between those from 'noble clans' and those from occupational groups has increased in recent years. However, women have reported being beaten by their families if they undertake such a commitment. Some have told MRG they are in fear for their lives. MRG has serious concerns about stability in Somaliland and the safety of minorities. Many remain in camps for internally displaced people.

Puntland

Minorities in Puntland, who include Yibro and Gaboye, as well as Bantu, live in extreme conditions, and are subject to discrimination by police, the judiciary and members of majority clans. This is the case both for groups born in the region and Bantu, many of whom are IDPs from southern Somalia, and live in camps. Minorities also experience barriers to political participation from majority clans. MRG research has found that violations against minority women and children in Puntland are widespread. A persistent pattern of rape of minority IDP women in Bosasso exists. Perpetrators include men from majority communities and

sometimes members of the Puntland police, army or security service. MRG research has found they have great difficulty in obtaining access to justice, with police often refusing to investigate minority complaints, including allegations of rape. Where customary law is applied, minority elders must negotiate compensation with their majority counterparts, and, following this, submit the decision to the courts, which close the case with no further investigation or judicial action. Minority members have reported ongoing discrimination in such cases. In February 2009, a 16-year-old from a minority was killed in a fight in Bosasso. He was held down by a group from the majority community, and killed with a piece of glass. The compensation given was 70 camels (where 100 are customary for the life of a member of the majority community) and cash of 200,000 shillings, where the normal rate is 300,000 shillings. The case was settled and closed by the court.

The ongoing situation of Somali peoples including its most vulnerable minorities was worsened at the end of 2009 by severe drought. More detailed information on Somalia's minorities, including first-hand testimony, can be found in MRG's forthcoming (2010) report on the country.

Sudan

Despite the 2005 Comprehensive Peace Agreement (CPA), which ended the two-decades-long civil war between North and South Sudan, stable peace in the country remains elusive. Sudan has failed to heed calls to address issues of identity and participation – on both a political and economic level – concerning land rights, justice and non-discrimination. A December 2009 ICG report said, 'The failure to foster democratic transformation in the North has also undermined the chances for political settlement in Darfur and exacerbated tensions in other parts of the country.'

On 4 March 2009, the pre-trial chamber of the International Criminal Court (ICC) issued an arrest warrant against Sudanese President Omar El Bashir for war crimes and crimes against humanity committed in Darfur. He was the first head of state to be so charged by the ICC. In response, the government of Sudan immediately revoked the permits of 13 international humanitarian aid organizations and closed down three national organizations. The closures came without prior notice and the government

'We are considered inferiors and no one wants to marry us'

Inter-clan marriage in Somaliland is still a cause of violent conflict, MRG researchers in the region have found.

Compared to southern Somalia, Somaliland is considered to be relatively safe from inter- and intra-clan violence; the last clan conflicts were resolved in 1997. However, despite this comparative stability, violence against members of minority groups is still prevalent.

Minority occupational groups, collectively known as *saab* or *boon* in Somaliland, are faced with particular prejudice. They are considered to be inferior to majority groups, who are referred to as 'noble' clans. This prejudice extends to customs including marriage. Members of noble clans are absolutely forbidden to marry members of the *saab*.

In 2009, one *saab* woman told MRG how her marriage to a man from a noble clan ended violently when his family found out about their relationship. His relatives beat her and forced her husband to divorce her. She continued:

'they identified me as the major problem, the one tempting their son. I was terribly injured and my family had to take me to hospital. The elders met and I was given compensation. Their message was clear: "Take your compensation and leave our son alone." We are considered inferiors and no one wants to marry us.'

Because of such violent reactions from their families, couples with partners from different clans often choose to leave their homes to start a new life together. However, eloping is not always possible and some couples choose to remain despite the

threat to their safety.

Another woman, this time from a noble clan, describes the consequences of marrying a man from the *saab*. She says that although she knew the risk of marrying her husband, 'destiny is more important than anything else ...' They married secretly in a nearby town in 2009, but have been living in a state of anguish since her family found out about their wedding. The bride told MRG:

'My life became unbearable when my family got to know about my marriage. I was beaten up by my family who had my husband imprisoned. The police officers tried their best to mediate and explained to my family that our religion did not forbid inter-marriages. But there was no way to convince them. The police decided to keep my husband in jail as a way to protect him from further retaliation. At last, he was freed after the intervention of others of his relatives.'

Despite the adversity that they face, she and her husband now live together. She says:

'I live in a constant state of panic and tension. I am afraid that my family members will kill me because they have already done all that they could. Sometimes they attack me in public places and people of goodwill have rescued me. I do not know when this nonsense will end, only Allah the Almighty knows.'

Sometimes the violence towards couples of such marriages can escalate and affect those around them. A 17-year-old *saab* girl recalls watching wedding celebrations of a woman from a noble clan and a man from the *saab* on her way home from school. As she was watching, big cars drove up to the party and armed men got out. When she saw the men, she started to run out of fear and ignored them when they told her to stop. She says,

'they shot me in my arm. That was the last time I went to school. I am now afraid of going out. My arm still hurts and it is not functioning properly. All I remember is that I fainted. I do not know what happened after that. I heard that other people were also wounded.' ■

Edited by Rahnuma Hassan from MRG's forthcoming report on Somalia.

did not allow a transition period in order to ensure continuity of supply of emergency aid in Darfur and other parts of Sudan.

Violence against minorities, which began in Kordofan in 2007, continued in 2009. In February, local members of the Popular Defence Force (PDF), aligned with the governing National Congress Party (NCP), threatened to kill a local Presbyterian Church leader, according to the UN. In March, PDF members interrupted a church service and threatened further destruction after breaking the cross on the church's roof, USCIRF said. In the same month, a Catholic church in Shatt Dammam and an Episcopal church in Shatt Mazarik were targets of arson attacks. According to USCIRF, church leaders reported to the UN that the crimes were not investigated by Kadugli police. At the end of the month, following fighting between the PDF and the Sudan People's Liberation Army (SPLA), the Southern Kordofan State Legislative Council held a special session to address the mounting religious and ethnic tensions in the area.

In Southern Sudan, inter-tribal conflict in Jonglei and Warrap states claimed more than 300 lives. A complex mix of factors, including access to cattle grazing, which nomadic communities must have to survive, as well as cattle raiding and mutual suspicion between ethnic groups and political groupings, saw clashes between Bari and Mundari communities in April.

The Abyei dispute over natural resource sharing in central Sudan displaced over 50,000 people in 2008, when fighting broke out between the Sudanese army and SPLA forces. Following this the NCP and the Sudan People's Liberation Movement agreed to accept as final and binding a ruling by an arbitral tribunal in The Hague. The decision of the International Arbitral Tribunal on Abyei was announced in July 2009, placing the Hellig oil field in particular outside the Abyei area. International observers said the implementation of the ruling would provide a 'litmus test' of the will of both sides to implement the CPA. Some believe that if key elements are not properly implemented, and the international community does not help to ensure this, Sudan risks a return to all out civil war.

Religious minorities

In the north, all Christians and followers of other traditional religions are subject to Sharia law.

Right: Mundari people at a cattle camp in Central Equatoria Province, Southern Sudan, October 2009. *J. B. Russell/Panos.*

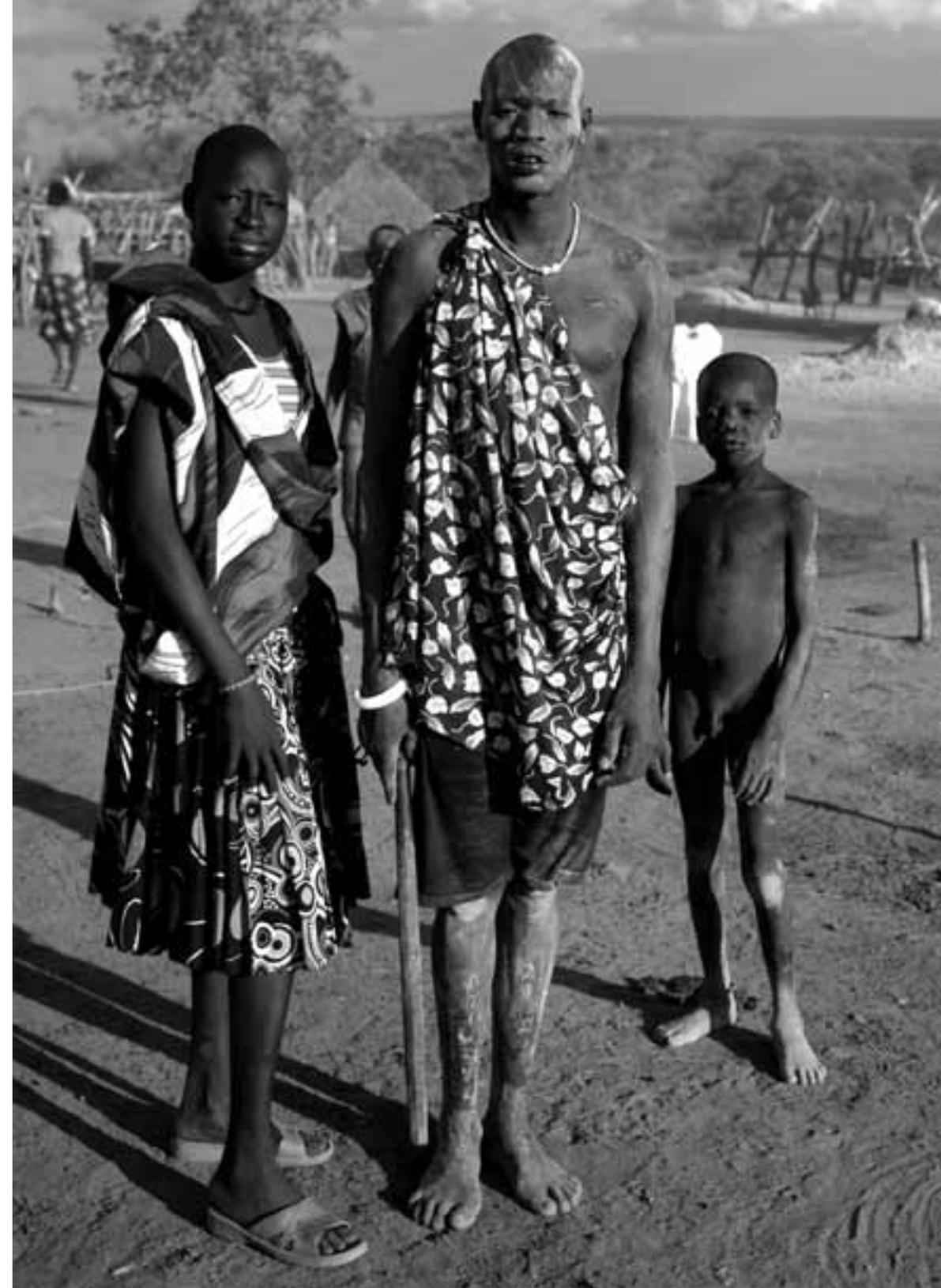
Christians continue to suffer discrimination from government permissions departments concerning the right to build places of worship. Conversion from Islam is a crime punishable by death. Life for converts to Christianity from Islam is made so difficult that they often flee Sudan, USCIRF said.

Public order laws in Sudan, inspired by strict interpretation of Sharia, impacted on women. According to the Strategic Initiative on Women in the Horn of Africa (SIWHA), a regional women's rights NGO, these laws impose 'severe penalties for behavior which does not cause loss or damage to other persons' property or life; behaviour which would be permissible in most states in Africa'. While the ACHPR in *Curtis Francis Doebbler v. Sudan* indicted Sudan for its Criminal Code, which sanctioned public lashings of women in order to secure chastity by limiting public contact of the two sexes, and ordered the state to review the law, by 2009 Sudan had done nothing to ensure that its laws complied with the African Charter. In two high-profile cases, Lubna Hussein, a journalist attached to the UN in Khartoum, was convicted of the crime of 'indecent or immoral dress' when she wore a pair of trousers, an outfit which is worn daily by women across African cities. For this, she was fined £200. Although the Sudanese government (in its third periodic report under the International Covenant on Civil and Political Rights) claimed to have abolished Public Order Courts in 2007, in fact this authority sentenced Lubna to caning.

In November 2009, a 16-year-old South Sudanese Christian girl, Silva Kashif, was sentenced under the same decency law to be lashed 50 times for wearing a mini-skirt. In media interviews the girl said the skirt came below the knee. Such laws affect non-Muslims as well and serve to increase the religious polarization between the various Sudanese regions.

Darfur

The situation in Darfur deteriorated further in early 2009. Attacks on villages and against the UN-African Union joint Mission in Darfur (UNAMID), led to further displacements in the troubled region. The Internal Displacement Monitoring Centre, an NGO, reported that the



total number of IDPs in Darfur was 2.7 million in January 2009. It said that from January to March a further 65,000 people were displaced. Aid efforts and strategies to tackle the difficult conditions many face are being affected, and this is compounded by the ongoing threats to peoples' safety, which, in turn, leads to waves of displacement, the report said.

Tanzania

In its pursuit of foreign direct investment in the agricultural, mining and tourism sectors, the Tanzanian government carried out violent evictions of minority groups. These were accompanied by rapes and other gender-based violence against the Maasai indigenous community in Loliondo in August and September 2009, the Chair of the African Commission's Working Group on Indigenous Populations/Communities in Africa reported. The government leased out part of the community's land to the Sovereign Emir of the United Arab Emirates (UAE) through the OBT Corporation to carry out safari hunting in Loliondo, NGO Survival International said.

This was the latest in a series of such evictions. Land in another village in Ngorongoro, Soitsambu, was allocated to Tanzania Breweries Limited (TBL) to facilitate barley cultivation in 2003. This was opposed by the Maasai community. TBL eventually leased the land to Tanzania Conservation Limited, a subsidiary of Thomson Tanzania Ltd, for 96 years, IWGIA reported in 2009.

The Barbaig community, another minority group whose land was annexed by the state for private tourism development, has consistently refused to move from the land. They have experienced constant repression by security forces. In April 2008, 14 Barbaig elders were arrested and incarcerated for refusing to accede to an order for the relocation of 45 families out of the leased land.

In the three cases, the Village Land Act of 1992, which was meant to grant security of tenure to communities, seems to have been flouted with impunity, mainly for tourism and mining. In the meantime, the Wildlife Conservation Law enacted in 2008 grants powers to the Minister in Charge of Wildlife to declare any land, including village land, a wildlife protection area.

Compared to some other African countries with a Muslim minority, in Tanzania the debate on Sharia has taken a different dimension, largely due to independent Tanganyika's state policy to take a secularist

stand towards religion. Sharia in personal matters was discontinued from application in courts and the Kadhi's courts were abolished immediately after independence, ushering in an era of legal universalism.

This refusal to accommodate the Islamic judicial system, particularly in Dar es Salaam and the islands of Zanzibar and Pemba, historically the regions with the highest concentration of Muslims in the country, increased the resonance of demands for separation from the mainland in 2009. Notable is the fact that the national anthem of Tanzania has on occasion been shunned by the Zanzibar House of Representatives in favour of their original anthem and sporadic use of the Zanzibar flag has also re-emerged in 2009, according to interviews conducted for this report. In May 2008, 12 elders from Pemba presented a memorandum to Oscar Fernandez-Taranco, the head of the UN delegation in Dar es Salaam. The key point of the memorandum was secession from Tanzania. As was expected, Dar es Salaam perceived these actions as treasonous, arresting and prosecuting the 12. Zanzibar's discontent, although often framed in religious terms, appears to be linked to the unequal share of revenue resources between the island and mainland, especially after the discovery of natural gas in Zanzibar.

Uganda

In September 2009, a three-day riot in Kampala led to the deaths of at least 50 people and the arrest of 600 others. Members of the ancient Buganda kingdom rioted over the state's refusal to allow their traditional leader, the Kabaka, to visit a part of the kingdom. The Buganda community has continued to demand a semi-autonomous federal unit for itself, a demand largely driven by the quest for the restoration of Buganda land annexed by the state after the abolition of kingdoms during the first Obote government.

The discovery of oil early in 2009 in Lake Albert within the traditional territory of another kingdom, the Bunyoro Kitara, is also already creating serious tensions with the national government.

Minority groups in Uganda remain highly disadvantaged. The Batwa, Benet and pastoralists in Karamoja, for instance, held no important chieftaincies, meaning their access to political participation is limited. In northern Uganda, the integrated disarmament programme of the state, which for the first time had been designed with the Karamojong's involvement, was abandoned in 2008, when the state mounted another brutal security operation in

the region. This resulted in deaths and destruction of property, and eroded community support for the disarmament programme. It also led to the suspension of funding to the programme by the main bilateral donor to the project, Norway.

Batwa, one of the most vulnerable communities in the world, witnessed further deprivation of their access rights in the Bwindi Mgahinga National Park when DRC, Rwanda and Uganda signed an agreement to create a transboundary biosphere out of the national parks that cover the Virunga landscape. This decision, like many before it, was taken with no consultation or involvement of Batwa. The Benet Lobby Group reported that a decision of the Ugandan High Court to restore the ancestral rights of the community over Mt Elgon National Park in 2005 remained largely unimplemented by the state, even though about 1,000 of their members in Kapchorwa district have been temporarily allowed to settle in the park.

Uganda's 2005 constitutional amendment that created the new Equal Opportunities Commission (EOC) mandated the government to establish it within a year. The EOC was intended to address discrimination and to ensure that affirmative action for marginalized groups is promoted and observed. Despite passage of the 2007 Equal Opportunities Act, the Commissioners were only appointed by the president in August 2009. While it is still too early to assess its strengths, the establishment of the EOC provides an important institutional mechanism which minorities in Uganda, including Batwa, can use to advocate for recognition more visibly.

In 2009, the president, contrary to the principles laid out in the Constitution, continued to create new districts defined on an ethnic basis, the Ugandan newspaper *New Vision* said.

The Ugandan parliament in 2009 considered enacting a law that would reaffirm penalties for homosexuality and criminalize the 'promotion of homosexuality'. The Anti-Homosexuality Bill of 2009 targeted lesbian, gay, bisexual and transgender (LGBT) Ugandans, their defenders and anyone else who failed to report them to the authorities, whether they are inside or outside of Uganda (International Gay and Lesbian Human Rights Commission [IGLHRC], 2009). These homophobic attacks are reinforced by dominant religious views. Hence in March 2009, the IGLHRC pointed out that, 'The American religious right is finally showing its hand

and revealing the depth of its support for homophobia in Africa.' However, while most orthodox religious groups support the legislation, they are opposed to the penal measures proposed, particularly the use of capital punishment. These developments, as pointed out earlier in this chapter, generally portend ill for pluralism in Uganda.

Western Sahara

The struggle for self-determination of Western Sahara continued in 2009 despite Morocco's hardening position. In 2007, the UN attempt to break the deadlock over Western Sahara brought Polisario and Moroccan authorities together for the first time in ten years. But two years on, this spirit of open dialogue seems to have dissipated. UN Security Council Resolution 1754 in April 2007 called for the two parties to hold unconditional talks to achieve 'a mutually acceptable political solution providing for the self-determination of the people of Western Sahara'. However, Security Council Resolution 1871 of April 2009 effectively downgraded the previous resolution and urged the parties 'to hold small, informal talks in preparation for a fifth round of negotiations'.

The apathy of the international community towards Western Saharan demands appears unchanged, particularly after the European Union (EU), in May 2009, launched fresh negotiations with Morocco, reviving agreements which had previously been cancelled. These focused on the fisheries sector; while Moroccan waters are relatively rich in fishery resources, the most abundant fisheries are found off the coast of Western Sahara. The Representative for Europe of Western Sahara's Polisario exiled government claimed in a letter in to the EU Commissioner on Fisheries and Maritime Affairs in May 2009 that, 'Morocco's key tactic to illegally maintain its occupation of Western Sahara is to include the Western Sahara waters within its fishing areas under Moroccan control in order to involve European interests in its military illegal occupation and the permanent violation of international law.'

A European-wide coalition of pro-Sahrawi activists, united in the 'Fish elsewhere campaign' under the leadership of AI, has underlined that the EU-Morocco fisheries deal in its current form is contrary to international law and the UN peace process.

In order to clamp down on civil society demands for self-determination, Morocco has had recourse

‘Once villages are disarmed, they are not provided with any extra protection’

Samia Liaquat Ali Kan talks to sub-county chief Moses in Irriri, Uganda, about issues faced by pastoralist communities and the lack of impact government policies have had on their lives in the past ten years.

The semi-nomadic pastoralist communities of Karamoja have long been marginalized from mainstream political decision-making processes in Uganda. They suffer from extreme poverty and struggle to maintain their traditions as wider socio-economic changes have had a negative impact on the sustainability of their lifestyle. One central problem these communities face is the outbreak of armed violence as groups compete for scarce resources.

Past governments have done little to make a difference to Karamojong people, they considered pastoralism to be ‘backward’. This prejudiced view has meant that the government policies that do address issues faced by pastoralists are often not implemented properly, or are inappropriate or unsuccessful. An example of such a policy is the disarmament attempts by the government that have been going on since the 1980s.

Irriri, a sub-county of Karamoja, has become a growing population centre, as people settle in large permanent groupings for reasons of security. Moses, the sub-county chief of Irriri, believes that one of the biggest problems faced by communities is that of insecurity and conflict. Despite government attempts to increase security, the situation has not improved. Although the government has attempted to disarm groups, it has not provided them with alternative livelihood strategies which they can pursue in order to dissuade them from continuing to raid other villages. Another problem has been that, once villages are disarmed, they are not being provided with any protection, leaving them vulnerable to attacks from other groups. Inevitably, they need to procure weapons to protect themselves and the cycle of violence continues.

Discussions with the communities confirm that insecurity is a major concern. People feel that the government has not been able to protect them from armed groups and this has resulted in people being killed and women being raped. They also mention that, as violence has become a part of life, the inability to protect one’s family signifies emasculation and can lead to social problems like alcoholism and increased domestic violence.

Another major concern is around access to food. Attacks by other communities and cattle rustling have resulted in a decrease of numbers of cattle over the years and this means that communities can no longer rely on their traditional pastoralist livelihoods for survival. In addition, seasonal rains have decreased in the last decade, and the areas of East Africa in which pastoralist communities reside have increasingly suffered from drought. For settled communities, farming and food production has become increasingly difficult, as drought results in crop failure and the death of livestock. Insecurity in the area

means that there are few other means to procure food. Communities like these rely on the UN World Food Programme to provide relief; many cannot register for food aid, however, because of incorrect population figures provided by the government. Even if registering for food aid is possible, there is no guarantee that the food aid will be sufficient, as many villagers complain that raids often occur soon after delivery and again the communities are left with nothing.

Women in particular identify other issues as well, regarding basic services such as schools and access to water. They say there has been an inadequate provision of good-quality education for themselves and their children. Hidden fees mean it is difficult for families to afford to send their children to school; often schools are located far away from the communities, which makes it very hard for younger children to be able to attend. Access to water is still a problem, as women have to travel for miles in order to collect water and firewood. This is a time-consuming activity and also dangerous, as there is always the risk of being attacked or kidnapped. In terms of health care, there has been some improvement as women receive free medicine through NGOs; however they still find that government health clinics are often too far away from them to access.

Hearing from these communities makes it clear that the last ten years of government policies specifically focusing on poverty reduction have had little positive effect on their lives or livelihoods. ■

Text edited by Rabnuma Hassan from MRG’s forthcoming report on Poverty Reduction Strategy Papers

constitutional reform and transitional justice rolled on. However, these processes may yield little in an environment marked by intense political competition between the coalition partners, and where ZANU PF continues to dominate the control of security infrastructure which it manipulates at will.

USCIRF reported that Anglican Christians from the Church of the Province of Central Africa (CPCA) were arrested, harassed and prevented from attending church by the government. Police continued to disrupt Anglican church services and sanctioned the seizure of property by splinter groups. They arrested parishioners, interrogated priests and lay leaders, and locked the doors of churches to keep worshippers away. Religious leaders who were critical of government policies, who spoke out against human rights abuses committed by the government, and who provided humanitarian assistance to citizens during a nearly three-month ban on NGOs, were also harassed, the report said. *The Standard*, a Zimbabwean daily newspaper, reported on 3 May 2009 that an Assemblies of God church in northern Matabeleland was closed down ‘as its resident pastor fled after being tortured by Zanu-PF supporters on suspicion that he was an MDC sympathiser’. Pius Ncube (then Archbishop of Bulawayo Catholic Church and one of President Mugabe’s most outspoken critics), was assaulted by security personnel and finally forced to resign through negative state campaigning including allegations of ‘immoral’ behaviour. ■

to its nationality law. Aminatou Haidar, a vocal human rights defender was in 2009 refused the right of entry into Western Sahara by Moroccan authorities. Following a hunger strike of 34 days, she was allowed to return.

Zimbabwe

A collective sigh of relief marked the signing of the global national accord in Zimbabwe and the forma-

tion of a government of national unity late in 2008. The international community’s response to re-engage with Zimbabwe in 2009 has at least rekindled the hopes of a nation whose population was besieged by myriad socio-economic challenges, including the near collapse of the education and health sectors.

The white minority continues to be threatened in Zimbabwe, although overall they remain economically advantaged. The wave of nationalization of

foreign enterprises and the grabbing of white-owned farms has not abated in 2009, even after the coalition agreement between President Mugabe and opposition leader Morgan Tsvangirai took effect.

While 2009 was expected to record a marked change in the political culture of the state, repression still informs the Zimbabwean government’s response to politics. By fits and starts rather than deliberate and consistent planning, the processes of