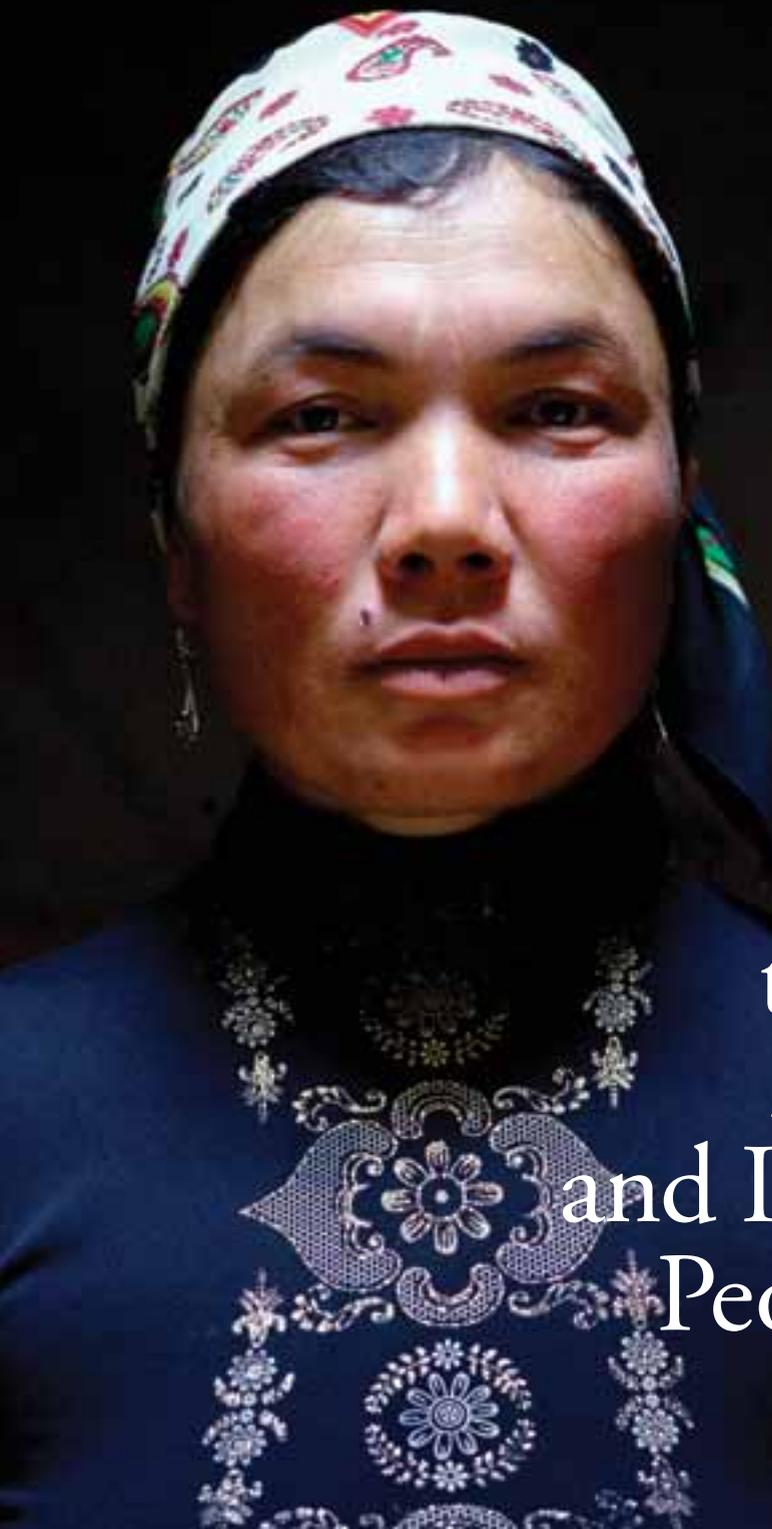


Focus on Religious Minorities

minority  
rights  
group  
international



State of  
the World's  
Minorities  
and Indigenous  
Peoples 2010

Events of 2009



State of  
the World's  
Minorities and  
Indigenous  
Peoples  
2010

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## Minority Rights Group International

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**Inside front cover:** A Muslim man reads to two children in a makeshift mosque in Wil, Switzerland. Their community's project to build a cultural centre with a minaret was one of the proposals that sparked a controversial anti-minaret campaign that led to a referendum banning minarets in Switzerland. *Mark Henley/Panos.*

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- *Pakistan: Minorities at Risk in the North-West*
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- *Discrimination and Political Participation in Bosnia and Herzegovina*



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# State of the World's Minorities and Indigenous Peoples 2010

Events of 2009

Focus: Religious Minorities

Edited by Preti Taneja

Minority Rights Group International

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# Foreword

Asma Jahangir

*UN Special Rapporteur on  
freedom of religion or belief*

As United Nations Special Rapporteur on freedom of religion or belief, I have had the opportunity to conduct country missions and document individual cases in which freedom of religion or belief has allegedly been violated. These encounters have confirmed my perception that members of minorities – alongside other groups including women, indigenous peoples, refugees and migrants – are particularly vulnerable to human rights violations. Some national laws openly discriminate against individuals on the basis of religion or belief, or a perceived lack of religious fervour. Violent acts or threats against members of religious minorities are also perpetrated by non-state actors, unfortunately all too often with impunity.

Discrimination based on religion or belief often emanates from deliberate state policies to ostracize members of certain minority communities. In doing

**Below:** A boy from Pakistan's minority Sikh population collects aid after fleeing the Swat and Buner districts. *Jared Ferrie/MRG.*

so, states pander to the interests of the religious majority community. However, such discrimination against religious minorities is often symptomatic of much deeper problems, with governments frequently using sectarianism as a diversion from other more pressing political, social and economic issues.

A recent survey by US-based think-tank the Pew Forum indicates that about one-third of countries currently have high or very high restrictions on religion. Within these countries, the most salient issue which needs addressing seems to be legislation which unduly limits the right to manifest one's religion or belief, for example through registration requirements or undue restrictions on places of worship. Forced conversion,



often targeting women and children who are abducted, is another particularly malign problem which needs to be tackled. At the same time, in a number of countries, individuals who have voluntarily changed their religion or belief continue to face discrimination, threats and, in the most serious cases, even death. Governments and religious leaders must understand that freedom of thought, conscience and religion includes *everybody's* freedom to change religion or belief, i.e. not just conversion to the majority or official religion of the concerned country.

When governments work to ensure that the rights of members of religious minorities are protected, this not only leads to a more stable and secure society, it is also an indicator of how seriously invested they are in the protection of human rights. This must be accompanied by the use of other more informal strategies, such as inclusive inter-religious and intra-religious dialogue, to help in defusing potential tensions at an early stage. The structure of the state, its method of governance and educational policies may – depending on their design and implementation – either help in creating religious harmony or contribute to religious friction. Preventive activities and the commitment of governments and societies to fundamental human rights are therefore key to creating an atmosphere of religious tolerance. ■

## Profile

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**'People aren't willing to believe that these injustices happen in our society. ... But it's all going on next door.'** *Asma Jahangir, speaking to TIME magazine in 2003*

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- 1952** Born in Lahore, Pakistan.
- 1978** Graduated with a Bachelor of Law degree, Punjab University, Lahore, Pakistan.
- 1980** Instrumental in the organization of Punjab Women Lawyers Association (PWLA).
- 1985** Instrumental in the formation of the Women's Action Forum, an organization dedicated to defending the rights of women living under Islamic law. The Forum describes its mission as providing 'information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam'.
- 1983** In collaboration with the Punjab Women Lawyers Association in

Lahore, was arrested when she organized a march to protest the proposed law of evidence which equated the testimonies of two female witnesses to that of just one reliable male witness.

- 1987** Together with her sister, Hina Jilani, established AGHS Legal Aid as an NGO. AGHS Legal Aid is the first free legal aid centre in Pakistan and specializes in gender violence legal cases. The AGHS Legal Aid Cell in Lahore also runs Dastak – a shelter for women.
- 1987** Founding Member of the Human Rights Commission of Pakistan (HRCP), first serving as Secretary-General and later as Chair of the Commission.
- 1995** Jahangir and her family faced attempts on their lives by religious extremists.
- 1998** Appointed UN Special Rapporteur on extrajudicial, summary or arbitrary execution of the Commission on Human Rights.
- 2000** Published *Whither are We!* in which she calls for then Pakistan President General Musharraf to improve his domestic human rights policies, particularly towards women.
- 2001** Together with her sister, Hina Jilani was awarded the UNIFEM (the United Nations Development Fund for Women) Millennium Peace Prize for Women, in collaboration with the NGO International Alert.
- 2004** Appointed UN Special Rapporteur on freedom of religion or belief. Since then has undertaken numerous trips to countries, including Angola, Laos, Nigeria, Serbia and Sri Lanka, highlighting and investigating human rights abuses.
- 2010** Continues working as UN Special Rapporteur and as a lawyer and activist.

Over the years Jahangir has represented several clients who were denied their fundamental rights. Notable amongst them are the cases she fought for brick kiln workers, who are mostly bonded labourers in Pakistan. She represented them and was subsequently successful

in getting legislation passed through parliament in their favour. Jahangir has defended cases of discrimination against religious minorities, women and children. She defended three Christians, among them a 14-year-old boy, accused of blasphemy. In an effort to combat rising rates of 'disappearances', she has also called on the Pakistani Attorney-General to inform the public about how many covert intelligence agencies are operating in Pakistan, and under what laws they conduct arrests.

*Compiled by Hannah Kaplan*

# Religious minorities in a post-9/11 world

Nazila Ghanea, James A. Goldston,  
Mumtaz Lalani and Preti Taneja

During 2009, minorities and indigenous peoples worldwide continued to suffer the after-effects of the 11 September 2001 attacks on the United States of America, which the then President George W. Bush termed the 'war on terror'. Since then, conflicts between governments and armed groups have continued to cause internal and external displacement, decimation of already vulnerable communities and an increase in state-sanctioned discriminatory practices. In some regions, they have inflamed the seeming clash between freedom of religion and freedom of expression, leading to violence between communities that were used to living side by side. While the new US administration under President Barack Obama has publicly distanced itself from the term 'war on terror', the phrase is still being used by other governments and the conflicts themselves remain. Minority Rights Group International (MRG) has been monitoring how the various impacts of 'war on terror' have disproportionately affected the lives of religious minorities for some time; this chapter examines some of the main issues religious communities now face, the ramifications of which are certain to be felt for years to come.

In Iraq, one of the countries that was subject to a US-led military intervention which was justified partly or wholly by 'war on terror' rhetoric, minorities have found themselves caught between sides as the resulting conflict has riven communities along ethnic and religious lines. Religious minorities, including Baha'is, Christians, Jews, Mandaean-Sabeans, Shabaks and Yezidis, have become the targets of violence, including murder, abduction, rape and looting of homes and property following the US-led invasion of the country in 2003. Since then, many representatives of those communities have spoken to MRG, reporting the threats that target them on grounds of their religious identities, and the other human rights abuses they have suffered. In 2009, MRG reported that somewhere between 15 and 64 per cent of Iraqi refugees are from religious or ethnic minorities, depending on the country of refuge. Some of these communities have existed in Iraq for more than two millennia. Most of those refugees whom MRG has met have said that they have no plans to return to Iraq.

The numbers of people remaining tell a stark story about the impact of the conflict in Iraq. Since 2003, the Mandaean community, which numbered around 30,000 in the Saddam Hussein era,

has shrunk to around 5,000 people, according to the NGO Mandaean Human Rights Group. The group said that, to date, 'Recorded incidents against Mandaean since 2003 stand at 167 killings, 275 kidnappings, and 298 assaults and forced conversion to Islam. Some include more than one member of a family.'

In 2007, the ancient Yezidi community were victims of the single most brutal attack on a minority since the fall of Saddam Hussein: the truck bombings in August 2007 that killed more than 400 Yezidis.

Women from these minority communities who remain in Iraq have reported being forced to wear the *hijab*, and feeling unable to leave their homes without being accompanied by a male relative. Those who have lost male relatives and are now heads of households in Iraq or refugees beyond its borders, experience the double vulnerability that goes with such a position. Along with lives and livelihoods, the cultures and traditions of these peoples are now being lost, as their already small numbers are scattered from their ancient homeland, to a number of different destinations, from Australia to Sweden.

Following the invasion of Afghanistan in 2001, the conflict with the Taliban has spread to Pakistan. Amnesty International (AI) reported in 2009 that attacks on minorities have risen there in tandem with the rise in religious extremism in the country. For minorities caught between the Taliban and Pakistani troops, this has had serious consequences. MRG's 2009 briefing paper on the country highlights the impact this has had on religious and ethnic minorities, including Ahmaddiyas, Christians, Hindus, Pashtuns and Sikhs. The Pakistan government negotiated a truce in 2009, practically ceding the contested Swat Valley area to Tehreek-e-Nifaz-e-Shariat-Mohammadi (TNSM), a group affiliated with other Taliban organizations. Sharia law was imposed and, by January 2009, Pakistani education officials estimated that over 130 schools in the Swat district had been closed down, many of which were for girls. It was reported that a *jizya* or tax was being demanded from Sikhs, Christians and other communities to live in safety in regions including Orakzai Agency and the Khyber, which is on the main route to Afghanistan. The ceasefire did not last, and in May 2009 the government launched a major military offensive against Taliban positions in Swat.

Over 2 million people, mostly ethnic Pashtuns, fled the area due to the violence. Religious minority Sikhs and Christians were also displaced but tended to travel beyond the temporary camps set up in the North West Frontier Province (NWFP). In interviews with MRG, many said demands to convert to Islam, coupled with threats of violence from the Taliban had become unbearable, forcing them to flee. In July 2009, Agence France Presse reported that ‘non-Muslims are easy prey’ in areas of Pakistan, and Christians who fled from Taliban rule told MRG that their churches have been destroyed.

It should be noted that although the conflicts in Afghanistan, Iraq and Pakistan are often reported in terms of religious differences, many of the most affected communities see the conflicts in terms of the denial of their aspirations to self-government and self-determination over natural resources.

States including, among others, China and Sri Lanka, which did not support the military coalitions fighting in Afghanistan and Iraq, have nevertheless appropriated the rhetoric of the ‘war on terrorism’ to justify actions against minorities they believe pose a threat to their authority or agenda.

In Sri Lanka, Rohitha Bogallama, the then Foreign Minister, said in 2006, ‘The world has joined together to denounce terrorism and [in] accepting the need to counter it.... Zero tolerance in terms of terrorism in Sri Lanka.’ Counter-terrorism laws were introduced by the government later that year. These laws heavily and negatively affected the Tamil and Muslim minorities as ethnic minorities in the country, as well as those civil society organizations working to protect and promote human rights there. As the state pursued the war against the LTTE or ‘Tamil Tigers’, there were incidents of violence committed against religious places of worship and large-scale civilian casualties (see Sri Lanka entry below). Despite the ending of the conflict, and calls from MRG and others for international pressure to be placed on Sri Lanka to end continued human rights violations, the laws remain in place today.

In China, ‘war on terrorism’ rhetoric has provided additional cover for state-sanctioned repression against religious and ethnic minorities, and derogation from protections for those charged with national security crimes. In the name of anti-terrorism, large-scale military exercises have been held in China’s border regions – areas that are mostly popu-

**Right:** Uighur men at Yang Hang mosque in Urumqi. Chinese authorities had tried to stop Friday prayers going ahead but at the last minute the doors to the mosque were opened. Xinjiang, China, October 2009. *Adam Dean/Panos.*

lated by minorities. Tibetan Buddhists who have attempted to preserve their religious and cultural identity by fleeing the country have been shot at; at least one nun has died.

Uighurs suffer curbs on their religious freedom, including legal measures forbidding parents and guardians to allow children to practise their religion. Men with beards and women in headscarves are particular targets for state repression.

Development practices that exclude and marginalize minorities in their own regions have also been reported. Many minority workers from these areas have been transported to work in other parts of the country. This has contributed to violent clashes and loss of life. In 2009 protests in the capital of the Xinjiang Uighur Autonomous Region (XUAR) led to violence between Uighurs, Han Chinese and state forces, after tensions between local people and Uighur migrant workers in Guangdong, 3,000 miles from the XUAR, led to deaths from both communities. The UK’s *Guardian* newspaper said these were the ‘worst ... riots in modern Chinese history’. The Chinese state-owned *China Daily* claimed, ‘Evidence shows Uygur separatists who orchestrated the July 5 riots in Urumqi, capital of the Xinjiang Uygur autonomous region, have close relations with the Afghanistan-based Al-Qaida.’

Minorities, particularly Muslims across the USA and Europe, have also been the targets of increased controls and state powers since the 11 September 2001 attacks. States’ use of controls such as religious profiling certainly have the potential to divide communities, feed resentment and, as MRG has noted, sow the seeds for future conflict.

### Religious profiling

By James A. Goldston

Religious profiling involves the use of stereotypes about persons perceived to profess a certain religion as the basis for law enforcement or intelligence action, such as stops, searches, increased scrutiny and surveillance.

Since the 11 September 2001 attacks by al-Qaeda, many governments have focused counter-



terrorism policies on persons, especially men, believed to be Muslim or originating from a country with a majority Muslim population. Religious profiling is often linked to, or overlaps with, ethnic profiling. Because a person’s religion is not always visible, it is not always clear which ground or combination of grounds underlies any individual law enforcement decision. Nonetheless, religious profiling is widespread.

In the aftermath of the Christmas Day 2009 attempted bombing of an airliner over Detroit, Michigan, by a Nigerian Muslim, the US authorities targeted citizens of 14 countries – 13 of them predominantly Muslim – for special scrutiny at airports.

In France, a 2009 study by the human rights law organization, the Open Society Justice Initiative (OSJI), showed that persons of African descent in the Paris metro were up to 11.5 times more likely to be stopped by police than Caucasians, and persons of Middle Eastern or North African descent were up to 14.8 times more likely than Caucasians to be singled out. Many of those stopped were Muslim, though it is not known how many.

In recent years, the French Ministry of Interior has created special ‘regional centres to combat radical Islam’, the OSJI report said. In addition to

surveillance activities, these centres have undertaken raids against fast food restaurants, cafes, call centres, bookstores and other businesses, where ‘radical Islamists’ are thought to meet, or that are suspected of providing financial support to ‘radical Islamist networks’. Businesses often face judicial or administrative penalties, in some cases resulting in their closure. According to official figures, the regional centres conducted checks in 2005 on 47 mosques and prayer halls, 473 businesses, and 85 cafes and call centres. While these raids have yielded scant discernible benefit in countering terrorism, they have had a corrosive effect on the daily lives of French Muslims.

In the United Kingdom, stops and searches of Britons of South Asian descent – many of them Muslims – increased fivefold after the 2007 attempted bombings in London and Glasgow, the UK’s Institute for Race Relations has reported. In 2010, the European Court of Human Rights (ECtHR), in striking down counter-terrorist stop and search powers in Britain as violating European human rights norms, found that ‘[t]he available statistics show that black and Asian persons are disproportionately affected by the powers’.

From 2001 to early 2003, according to the OSJI, Germany undertook a massive data mining exercise

that trawled through the sensitive personal data of 8.3 million people on the basis of a broad profile that relied primarily on religion and ethnic origin – without finding a single individual involved in terrorist activities. Meanwhile, Italian police have singled out mosques, and Muslim and immigrant-owned businesses for special attention, with limited if any known success.

The Netherlands has been at the forefront in Europe in developing indicators that allow local actors to identify individuals in the process of radicalization. Religious profiling arises where these efforts conflate an alleged proclivity to violence with changes in manifestations of religious belief – such as a man of Arab origin who suddenly acquires more traditionally religious approaches to hair style, dress, mosque attendance or physical contact with women in public. Although Dutch officials have taken pains to avoid the inclusion of ethnicity or nationality as suspicious criteria, the indicators developed often focus on individuals who are becoming more strict in their practice of Islam.

Religious profiling is contrary to international law, which prohibits discrimination on grounds of (actual or perceived) religious belief in relation to the administration of justice and policing. But profiling is not just illegal; it is counter-productive. The problem with profiling is that, strange though it may seem, the authorities do not know whom to profile. Not all terrorists are Muslims. And even if they were, not all Muslims look alike, nor do they come from the same place. The ‘shoe bomber’, who in December 2001 sought unsuccessfully to bring down an airliner flying between Paris and Miami, was a UK national. One of the men responsible for the 7 July 2005 bombings in London was a naturalized UK citizen of African-Caribbean origin. A Moroccan national was found responsible for the 2004 attack on Madrid’s central train station. The 2002 Bali bombers were Indonesian.

A British government report has acknowledged, ‘There is not a consistent profile to help identify who may be vulnerable to radicalization.’ A 2005 French parliamentary report reached a similar conclusion. Far from contributing to the fight against indiscriminate violence, profiling reduces security by alienating some of the very communities that serve as sources of intelligence. Many law enforcement professionals understand these dangers. Thus, it was not a human rights advocate, but a senior European

police official who warned of the ‘very real risk’ that by ‘criminalizing minority communities’, through ‘the counter-terrorism label ... just at the time when we need the confidence and trust of these communities, they may retreat inside themselves’.

Moreover, when authorities treat an entire group of people as presumptively suspicious, they are more likely to overlook dangerous persons who do not fit the profile. Before the 7 July 2005 London attacks, the leader of the bombers had reportedly come to the attention of the intelligence services as an associate of other terrorist suspects. But he was not pursued because he ‘did not tick enough of the boxes in the pre-July profile of the terror suspect’, *The Times* newspaper, a British national daily, reported.

Stops and searches conducted under counter-terrorism laws in Europe have produced few terrorism charges and no convictions. Studies in Britain, the Netherlands, Sweden and the US by organizations including OSJI, the *University of Chicago Law Review* and others have concluded that ethnic profiling wastes time and money.

There are many things governments should do to counter the threat of indiscriminate violence, including improved coordination among intelligence agencies, speeding up the distribution of information, hardening potential targets, and giving intelligence and law enforcement agencies more consistent ability and resources to carry out the often painstaking investigative work required to apprehend and convict persons of terrorist acts. But perhaps most important, governments should end profiling. When the US Customs Agency removed an ethnically based drug courier profile that was targeting African-American and Hispanic women, it more than doubled the frequency of contraband detection, its own report found. Police units in Spain that instituted data-gathering to monitor profiling tripled the number of stops which yielded an arrest or other law enforcement outcome, the OSJI said.

Religion has long served as a tempting if inaccurate lightning rod for law enforcement scrutiny. In recent years, the harm of religious profiling, and the benefits of curtailing it, have grown increasingly clear. The challenge is to ground policing policy and practice in evidence, not prejudice. ■

While profiling has disproportionately targeted Muslims, for non-Muslim minorities in some parts of the world the struggle has increasingly become

protecting the right to worship at all. Again, this is state-sanctioned through measures such as religious registration laws. Although these laws are sometimes presented as responses to security threats or as a means of maintaining public order, they are increasingly being used by states as a means to monitor and control religious activity. In many cases, this can be linked to internal political factors as well as continued fears of extremism in a post-9/11 era. Since 2001, a number of countries, including Azerbaijan, Belarus, Kazakhstan, Serbia, Turkmenistan and Uzbekistan, have either introduced or amended their religious registration laws. Without exception, these amendments have made it more difficult for some religious communities, particularly religious minorities, to officially register with the state. In the context of a post-9/11 world, it is worth reviewing just what those laws mean and how they impact on minorities worldwide.

## Religious registration

By Mumtaz Lalani

Religious registration laws require that religious organizations and/or religious communities register with the appropriate government body in order to gain legal recognition as a religious group by the state. Such laws can be found in a number of countries, including Armenia, Azerbaijan, Belarus, Georgia, Latvia, Macedonia, Mongolia, Russia, Serbia and the five former Soviet republics of Central Asia.

Rules of registration vary significantly from country to country but frequently entail complicated registration procedures, along with various restrictions on the size and type of religious groups that are able to register. For example, some states have made it more difficult, or even impossible, for religious communities that are non-monotheistic to register. In Serbia, ‘traditional’ religious communities such as the Serbian Orthodox Church receive automatic registration while other religious communities such as Baha’is and Hare Krishnas continue to be denied registration. In other instances, restrictions on minimum membership levels are put in place meaning that there must be a minimum number of followers of the religious community in a particular location in order for them to be able to register. For example, the 2008 draft Religion Law in Kazakhstan proposed that religious associations had to have at least 50 (increased from 10) registered members in

a particular location in order to register. The proposed amendments were eventually declared unconstitutional by Kazakhstan’s Constitutional Council, although concerns remain that the government may try to re-institute similar amendments later in 2010. Such rules are clearly particularly burdensome for smaller or more recently established religious groups, as well as those living in disparate locations.

Recent events in Azerbaijan demonstrate how registration laws can impact on the freedom of religious minorities and result in a situation where members of the majority religion are able *de facto* to deny registration of minority groups. Azerbaijan is a Muslim majority country with Armenian, Avar, Jewish, Lezgin, Russian, Talysh and other smaller minorities. Under Azerbaijan’s new Religion Law, which was introduced in May 2009, all religious communities were required to re-register before the 1 January 2010 deadline or face withdrawal of official status and liquidation by the courts. Forum 18 News Service reported that more than four-fifths of religious communities were unable to receive re-registration through the State Committee for Work with Religious Organizations which conducted the registrations. Forum 18 reported that only communities affiliated with the Caucasian Muslim Board were eligible to apply for registration and that non-Muslim communities had complained that officials responsible for conducting registration had attempted to force some communities to impose restrictions on their religious activities.

Religious registration laws can also have an impact at the local level and can empower local officials to discriminate against particular religious or faith groups making it more difficult for them to register. In Mongolia, where Buddhism is the majority religion, local officials shut down several churches in Erdenet, Northern Mongolia, in July 2009 for lack of registration and also threatened to confiscate the property of another church, despite having made it extremely difficult for the churches to register in the first place. After significant advocacy by the US-based Becket Fund, the government has reversed its position and the church resumed services in December 2009.

In addition to being unable to hold religious services when groups fail to obtain official registration documents, members of religious groups are often subject to significant harassment and in some cases police raids. In December 2009, the Path of Faith

church in Dashoguz, Turkmenistan, was raided by police and religious affairs officials during Sunday worship. Church members were questioned, literature was confiscated and the church's activities were declared illegal without registration. Even in cases where minority or 'non-traditional' religious groups are able to obtain registration, they are sometimes still affected by discriminatory treatment closely related to registration laws. In Serbia, for example, parliament passed a decision in January 2009, which made 'traditional' religious communities, who receive automatic registration, exempt from paying administrative taxes, while 'non-traditional' groups not only have to apply for registration but are also expected to pay this tax.

At present, many religious registration procedures are applied in a discriminatory manner against certain religious minorities. Freedom of religious belief should not be limited to 'traditional' or dominant religious groups. Rather, as indicated by the UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, in her 2009 summary of cases submitted to governments, religious registration procedures should be brief and simple and should not be dependent either on reviews of the substantive content of the belief or on extensive formal requirements. Registration laws should be legislated merely for the acquisition of a legal personality and related benefits and should not be a precondition for practising one's religion. The UN Human Rights Council (HRC) should play an important role in monitoring and evaluating the implementation of religious registration laws, noting particularly the impact of such laws on minority and so-called 'non-traditional' religious groups, and providing recommendations to ensure that their freedom of religion is being appropriately safeguarded. ■

It is clear from the analysis above that events of the last eight years have made it increasingly important to affirm and protect the right to freedom of religion. For minorities this is particularly urgent. But this increasing need has also presented significant and specific challenges to the human rights framework, particularly where, as in some Northern hemisphere countries, the protection of freedom of religion is sometimes portrayed as running counter to other human rights such as freedom of expression. There have been numerous controversies around the world over cartoons, plays, adverts, pub-

lications and speeches considered offensive by some minorities, or, more accurately, declared offensive by a few members in the name of the group as a whole. These forms of expression have faced a variety of defamation laws, press laws and policies, and blasphemy laws according to the national context in which they are challenged.

But a seeming clash of these two rights perhaps over-simplifies the issues at stake. The right to equality and non-discrimination also comes into play, as does respect for diversity.

A key case that came to define these issues in the mid-2000s was the Prophet Muhammad cartoon controversy, which originated in Denmark and, like the Rushdie controversy of the 1980s, escalated beyond national and regional borders into a full-blown international crisis.

### **Religious minorities and the cartoon controversy**

By Nazila Ghanea

The controversy started in September 2005, when the Danish daily newspaper *Jyllands-Posten* published 12 cartoons caricaturing the Prophet Muhammad, which had been submitted by a number of artists. As the political scientist Christian Rostboll has noted, they were published under the heading 'The Face of Muhammad', with the stated aim to 'push back self-imposed limits on expression' and teach the Danish Muslim minority that in Danish secular society, 'one must be prepared to put up with scorn, mockery, and ridicule'. The subsequent protests and violence, some of which took place months and even years after the publications, have resulted in over 200 deaths, injuries, the burning of embassies and churches, and clashes with police in Europe, the Middle East, Africa and even Hong Kong. Some argue that the key reason for the aggravation of the crisis was the refusal by the then Danish Prime Minister Anders Fogh Rasmussen to meet with a group of diplomats from Muslim countries in October 2005. According to Rostboll, he did so on the grounds of the values of Enlightenment and the principle of free expression, on which 'we cannot give one millimetre'. The violence resurfaced on a number of occasions in subsequent years. In 2008 three men were arrested by the Danish intelligence services for plotting to murder Kurt Westergaard, the artist behind the most controversial of the 12 cartoons, that of the bomb in

the turban. In March 2008, three major Danish newspapers reprinted that cartoon in response to this particular plot. In the same year, there was a bombing outside the Danish Embassy in Pakistan, which killed eight people. Al-Qaeda claimed responsibility for this incident, asserting that it was carried out in revenge for the drawings.

The saga also came to the surface on a number of occasions more recently, not least in late 2009 in relation to Yale University Press and at the beginning of 2010 with an attempted assault in Denmark. In finalizing the publication of Jytte Klausen's book *The Cartoons that Shook the World*, Yale University Press stated that it had consulted over 20 security, Islam and counter-terrorism experts on whether or not to print the cartoons in the book. Yale University Press was insistent that its resulting decision to withdraw the images from publication was out of concern for deadly violence rather than hindrance of free speech. On 1 January 2010 the Danish police shot and wounded a 27-year-old man who was armed with a knife and axe. He had reportedly broken into the home of Kurt Westergaard and threatened to kill him.

Controversies such as this one are fuelled by expressions of 'offence' in the name of religious minorities. However, it should not be forgotten that the respective religious minorities may also have been politically instrumentalized without consultation, and may indeed be rendered *more* vulnerable as a result of such incidents. The very rationale behind the competition inviting the submission to the cartoons had been to teach the Danish Muslim minority community a lesson. In this instance, tensions around ensuring the enjoyment of collective minority rights are heightened and the already tenuous status of minority communities jeopardized further. This has particularly been the case for newly arrived minority groups.

Regarding religious minorities, public and governmental disquiet with the manifestation of religion or belief in public has increased. Some media and politicians are prone to presenting religious minority communities as monolithic, and all religious 'demands' as being unitary. Nevertheless, this is rarely the case. In the example at hand, even the Danish Muslim community itself had varying reactions to the publication of the cartoons. One Danish Muslim group, for example, responded by spearheading the creation

of a new organization – the Democratic Muslims in Denmark – dedicated to offering a moderate political voice for Muslims committed to the compatibility of democracy with Islam. The Camden Principles on Freedom of Expression and Equality, put forward by the NGO Article 19 after a wide consultation with experts, call on the mass media to take steps 'as a moral and social responsibility' to, 'seek a multiplicity of sources and voices within different communities, rather than representing communities as monolithic blocks'.

On the one hand, in some countries of the global North, the cartoon controversy has served as a platform for questioning the loyalties of religious minorities to the state and their alleged inability to uphold so-called 'European' values. On the other hand, in some Muslim states, the protests have fuelled an anti-Western frenzy that projects non-Muslims as alien and jeopardizes their rights. The rights and protections with regard to minorities remain, however, and states are bound by them.

The rights of religious minorities include freedom of religion or belief, and particularly the right to manifest religion or belief in association with others, and the objectives of both non-discrimination and equality. What minority rights *add* to the rights affirmed regarding manifestation of religion or belief in association with others includes the distinctive protection offered, the duties specified and the thresholds for the fulfilment of those rights. By way of example, minority rights recognize the need for the survival of group characteristics and offer clarity on the positive measures of protection required of states.

Human rights discussions on the cartoon controversy have been prone to reading it merely as a clash between freedom of expression and freedom of religion or belief. However, there is a much broader balancing that can come into play in such scenarios, taking into account minority rights, individual and collective rights, and equality and non-discrimination rights as well. What is often neglected is the relationship of this matter with questions such as: respect for diversity and equality for people of diverse cultures; censorship versus self-restraint; whether free speech by some may silence the expression of identity by others; conceptions of democracy and the value of pluralism; the causing and the taking of offence by individuals and minorities; the legitimacy and authority of those who speak

in the name of religious minorities; disquiet with 'otherness' and the integration of migrants; and the need for vigorous public debates in order to ensure a fuller understanding of the freedoms of expression as well as religion or belief.

In the UN, a highly polarized debate over the past decade has been concerned with whether to craft a new ban on the 'defamation of religion' in international human rights. Since 1999, this matter has been addressed under various agenda items including: racial intolerance, freedom of expression, freedom of religion or belief, 'complementarity of standards', the World Conference against Racism in Durban, hate speech and incitement, and the relationship between Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR).

The vulnerability of minorities means that there should be particular vigilance in relation to hate speech that targets them. They require special consideration in relation to the duty imposed on state parties through Article 20 of the ICCPR, which states, '1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.' Although there is no explicit mention of minorities in paragraph 2 of the article, the UN Human Rights Committee, in its General Comment 11 on Article 20, observed that Article 20 places an obligation on state parties 'to adopt the necessary legislative measures prohibiting the actions referred to therein', by showing that they have been 'prohibited in law', or showing that 'appropriate efforts intended or made to prohibit them' have been made. According to the Committee, full and effective compliance with this obligation requires 'a law making it clear that propaganda and advocacy as described therein are contrary to public policy and providing for an appropriate sanction in case of violation'.

The requisite threshold for hate speech as qualified in Article 20 is conditioned by that which 'constitutes incitement to discrimination, hostility or violence'. It should be noted that the advocacy of hatred constituting incitement is more specific than *any* expression that may be deemed discriminatory, in this case in relation to religious minorities. When assessing the higher thresholds of incitement to hostility and violence, therefore, the history of religious

violence and persecution against minority groups offers a useful indicator. Arguably, therefore, Article 20 of the ICCPR should be read not only in relation to Article 19 addressing freedom of expression, but also Article 26 addressing non-discrimination and Article 27 addressing minority rights.

The qualifier that comes with such a reading of Articles 20 and 27 is that the objectives of minority rights should not be forgotten. This calls for a consideration of the self-identification and free expression of individuals belonging to minority groups, their freedom of religion or belief and free expression, their duty to not 'engage in any activity or perform any act aimed at the destruction of any [ICCPR] ... rights and freedoms' (see Article 5.1 of the ICCPR). These qualifiers, therefore, suggest caution with regard to the simple trumping of one right over another – such as the prohibition of hate speech over free expression, or indeed of free expression over minority rights.

Individuals (including those belonging to minorities) have the right to live without discrimination and free of hate speech which 'constitutes incitement to discrimination, hostility or violence'. Individuals (including those belonging to minorities) should enjoy free expression and freedom of religion or belief. These rights encompass the right to manifest that religion or belief in association with others and to define themselves as belonging to a religious minority community. They also include the right for persons belonging to minorities to change their religion or belief, and to not declare their minority status.

The right to adopt a religion or belief of one's choice would necessitate the tolerance of discussions that may challenge one's religious or other beliefs. Articles 18 or 27 do not demand observance of or obedience to the religious laws or beliefs of others – in this instance, the Islamic prohibition on the depiction of the Prophet Muhammad. However, they do require that 'no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice' and that minorities 'not be denied the right, in community with the other members of their group, to ... profess and practise their own religion'. The intolerance and prejudice in a particular society may escalate to such a severe level that they extirpate the right to profess religion or belief. Finally, neither individuals belonging to minorities or majorities may engage in

any activity that aims to destroy the rights of others, including their right to free expression. All in all, and as the Camden Principles on Freedom of Expression and Equality note, 'States should establish a clear legal and policy framework for combating discrimination in its various forms, including harassment, and for realizing the right to equality, including in relation to freedom of expression.'

As the cartoon controversies continue to create new victims, it is worth revisiting the richness and balance of the human rights framework, not least as captured within the ICCPR. This debate should not be solely preoccupied with the question of whether freedom of the press should be unhindered or constrained. As has been suggested, a much wider human rights assessment is required. In this regard, a full respect for the rights of religious minorities would contribute to defusing, not fueling, this crisis.

### Ways forward

The human cost of the 'war on terror' has been immense. Whether caught in countries that have been targeted by the US-led military interventions, whether living in countries where governments have launched their own 'wars on terrorism', whether targeted by discriminatory registration policies or police profiling as a potential threat on account of one's religious beliefs, or whether targeted by religious extremists, minority civilians continue to bear a disproportionate share of the impact. Although 2009 might seem to have marked a turning-point, when the 'war on terror' rhetoric finally fell from the headlines and US troops withdrew from Iraqi cities, the damage to minority communities worldwide has already been done.

What are the ways forward in this new climate of explicit cultural and legalized suspicion? A more integrated approach to minority rights by states that have signed up to the international human rights framework is at the core of MRG's work on conflict prevention. This includes identifying harmful state practices and countering discrimination, with special focus on multiple forms of discrimination, for example against minority women. As discussed in Chapter 2 of this book, interfaith dialogue can provide a practical way to address tensions that exist in the aftermath of violence and to avoid future problems. In terms of root causes of conflict, frameworks offered by, for example, the

Millennium Development Goals (MDGs) could be better used to address the discrimination that leads to the grinding poverty and the deep-seated exclusion that many minorities face, as Chapter 3 shows. What is clear throughout this book is that the protection and promotion of the rights of minorities and indigenous peoples are in the best interests of society at large. The international community and bodies such as the HRC have a stronger role to play in, for example, monitoring and evaluating how the rights of religious minorities are safeguarded. Minority rights can also be drawn on to ensure effective rule of law that addresses security without targeting a particular community. Discrimination, including with regard to property rights, land rights and participation in decision-making, should be addressed if equality is to be achieved within states' borders. States need to ensure the survival and continued development of minorities, 'development' being not only internal to the group but also including healthy association and effective participation with society at large. Minorities should be consulted fully and openly on matters of concern to them and their existence protected and celebrated. Almost a decade on from the 9/11 attacks, the continued exclusion, repression and penalization of religious minorities must be checked. ■

# Engaging across divides: interfaith dialogue for peace and justice

Susan Hayward

*'There will be no peace among the nations without peace among the religions. There will be no peace among the religions without dialogue among the religions.'* Dr Hans Küng, 31 March 2005, at the opening of an exhibit on the world's religions at Santa Clara University

In a bright air-conditioned room outside of Polonnoruwa in north-central Sri Lanka, Sarasi, a small Hindu Tamil woman with a long braid of hair falling down the back of her dark pink *kurti*, stood before a diverse group of religious men. Many were Buddhist monks from the Sinhala majority.

Sri Lanka today faces a vulnerable transition, after decades of bloody civil conflict fought between the government and the armed Tamil separatist movement, the Liberation Tigers of Tamil Eelam (LTTE). The defeat of the LTTE and the end of the fighting occurred only months before the meeting took place. For three days, Sarasi observed these religious figures participate in facilitated interfaith dialogue addressing reconciliation, justice and coexistence in Sri Lanka. Over meals, she herself engaged in conversation with participants on these issues – all of them of central importance and eliciting strong emotions.

Haltingly and softly, Sarasi expressed to the meeting how powerful it was to have witnessed religious figures, revered social actors in Sri Lanka's deeply faithful society, engage across traditional religious and ethnic divides. It matters, Sarasi stated, because religion holds symbolic power in our (Sri Lankan) divides, despite the common ground and mutual respect between our religions. Sarasi spoke of her Hindu community's respect for the Buddha. He is a teacher to us, she asserted.

*'In our temples in the North, you will find the Buddha alongside Hindu gods and goddesses. We revere him for his wisdom and his compassion. And yet last year, when a Buddhist statue was erected in the middle of Killinochi [a town inhabited by Tamils and the most recent home-base of the LTTE], we knew that it was a political statement. There are no Buddhists living in Killinochi. This statue's arrival felt like the Sinhala Buddhist community asserting its claim to this town. It sparked suspicion and anger, fuelled mistrust in the government and the intentions of the Sinhalese in the newly captured north of the country.'*

Sarasi, crying now, stopped speaking and the room was silent for a beat, before a young monk raised his hand. The monk noted that it hurt his heart that the figure of Buddha could elicit this sort of fear of domination and might be used to express this sort of sentiment. We have to understand this perception, the monk said, and ensure that our religions fuel compassion and respect, not fear and domination.

The exchange was remarkable for its honesty. For the first days of the gathering, the conversation had been tentative – the participants seeking not to offend others, and so avoiding sensitive subjects, exhibiting denial and defensiveness. By the third and fourth days, as this exchange demonstrated, the participants had found the means to speak to each other with honesty, and to respond with compassion and acknowledgement rather than defensiveness, seeking to understand the perspectives and experiences of other communities. The result was a tentative relationship of trust that the group pledged to build on, in order to identify and mobilize around issues of justice.

Interfaith dialogue is increasingly offered as a concrete means to bridge inter-communal divides, build coalitions, and challenge the social-psychological dynamics that can fuel warfare and injustice. Interfaith dialogue can be a particularly useful tool for building awareness among majority communities about the experiences and needs of minorities, and for bringing simmering tensions to the surface and addressing them in a potentially constructive manner. It can also be useful as a means to prevent conflict by strengthening relationships between communities and thereby decreasing the potential for communal divides to become fault-lines of violence. Particularly in places where religion is fuelling inter-communal violence and exclusion, interfaith dialogue, when strategically designed and carefully implemented, can be used alongside other peace- and justice-making techniques to challenge and transform dynamics driving injustice and conflict. Interfaith dialogue can strengthen cultural and institutional commitments to religious, ethnic, racial and communal pluralism. This chapter will seek to highlight the opportunities offered by interfaith dialogue, as well as its limits, as a means to raise awareness about minority rights and as a tool for conflict prevention.

What is meant by interfaith dialogue? Certainly there is a great deal of informal interfaith conversa-

tion that occurs in environments in which those of different faiths can engage with one another in routine and ordinary ways – at work, in the market, at social gatherings and so forth. These everyday encounters across faith-divides are valuable but not equivalent to the practice of interfaith dialogue, as it is used for peace- and justice-making. When employed as a tool or strategic practice, interfaith dialogue refers to facilitated discussions on specific topics held between members of different faith communities, with an expressed objective or objectives.

These objectives can include building mutual understanding and acceptance, correcting stereotypes, and building relationships in order to address common problems. The goal is not to convert, to assert the superiority of one faith or to conflate different religions (diluting them into one common denominator), but to appreciate similarities and differences between religions and for participants to understand how their faith shapes their positions on particular issues. In other words, participants in these dialogues use their religious faith and tradition not only to build relationships, but as doorways into discussions about central social and political concerns driving inter-communal conflict. The purpose is not to debate in the sense that one side seeks to ‘win’ an argument by aggressively challenging or seeking to delegitimize the viewpoint of another, but rather to interact respectfully with the purpose of hearing and understanding the other’s perspective, and so finding ways forward.

In the United States, there was a surge in the popularity of interfaith dialogue following the events of 11 September 2001. This serves as a poignant example of the positive influence of this practice in promoting peaceful and respectful coexistence between religious majority and minority groups living side by side, particularly in moments of social and political tension. The minority Muslim community reached out to other religious communities in the aftermath of the crisis, particularly the majority Christian community, opening up their mosques to visitors, inviting those of other religions to *iftar* dinners during Ramadan, and inviting dialogue as a means to educate communities on Islam. The purpose was to combat popular false interpretations and fears of Islam, and to transcend the isolation of many immigrant communities. This was done in response, in part, to verbal and physical attacks against Islam, Muslims and mosques in the US fol-

lowing 9/11. It was also done out of a sheer desire to articulate an alternative Islam to that espoused by those Muslims who had orchestrated and carried out the events of 9/11. On the part of the participating non-Muslim communities, there was oftentimes a genuine interest in learning more about Islam following the attacks. Copies of the Qur’an flew off the bookshelves, and local churches and synagogues reached out to mosques in their community, seeking to engage and to understand.

According to the Professor of Catholic Thought and Inter-Religious Dialogue at Temple University, Leonard Swidler, interfaith dialogue operates in three areas: ‘the practical, where we collaborate to help humanity; the depth or “spiritual” dimension, where we attempt to experience the partner’s religion or ideology “from within”; [and] the cognitive, where we seek understanding [of] the truth’. Through dialogue and coming to understand one another, religious pluralism may take root that allows religious traditions to coexist and for people of faith not to feel threatened by the religious beliefs of those belonging to other communities. At the heart of this is a presumption that, through sustainable and respectful relationships based on dialogue and engagement, conflicts resulting from or exacerbated by fear, disrespect and misunderstanding between communities are less likely to occur, and, when they do, are less likely to devolve into violence. For example, in his study *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, Ashutosh Varshney analysed the inverse correlation between the existence of integrated Muslim–Hindu networks for civic engagement, such as professional organizations, and the degree of inter-ethnic violence in India. It showed that in Indian cities where Muslims and Hindus have opportunities to engage regularly with one another, there is less likelihood of inter-communal violence breaking out in the face of political, economic or social disruptions.

Effective interfaith dialogue moves participants beyond superficial levels of engagement, namely mere platitudes seeking to avoid offending anyone or a series of speeches offered, between which there is little conversation, and into a more profound interaction in which participants can honestly reflect on and struggle together over potentially sensitive and provocative issues. At this level of discussion, participants tackle not only the common views shared between the traditions of different faith com-

munities, but also the different positions that have been reached through ethical and theological or philosophical discernment. Participants are pushed to observe how their behaviour is or is not living up to their ideals, and the effect of their actions on others, which may differ from their intentions. Exclusive and/or competing truth claims are addressed and understood. At this level, participants come to understand not only other faiths, but their own more intimately. Real personal and communal transformation can take place. After all, as Cardinal Francis Arinze has said, ‘Religion is one of the deepest motive forces of human action. Our religious convictions, attitudes, sensitivities and prejudices do influence to a great extent our approach to the questions of the day.’ In other words, when tapping into individuals’ religious beliefs and sentiments, peace-makers work at a level that is highly persuasive with respect to the determination of one’s behaviour and attitudes. When dialogue goes well, allowing participants to engage with other perspectives and reach greater mutual respect and understanding, significant positive change can result.

Beyond the specific expressed goals of individual interfaith dialogues (e.g. environmental care, women’s human rights, etc.), wider and more cumulative dialogues are increasingly espoused by governments, international organizations, non-governmental organizations (NGOs), academic institutions and religious communities, as an important means to promote pluralism, and to decrease bias and bigotry that can lead to hate crimes, violence and discrimination.

The governments of Jordan and Saudi Arabia, among other governments in the Arab world, hosted large international interfaith dialogue meetings in 2009. The two countries also have national institutions mandated to promote interfaith dialogue, including Jordan’s Royal Institute for Interfaith Studies and Saudi Arabia’s Royal Aal al-Bayt Institute for Islamic Thought, which helped facilitate the launch of ‘A Common Word’ initiative, a global Muslim/Christian dialogue. US President Barack Obama spoke favourably of interfaith dialogue in his 2009 speech in Cairo, addressing the Islamic world. The UN General Assembly Resolutions 58/128, 59/23, 60/10 and 61/221 all call for inter-religious dialogue and cooperation as a necessary means to promote a global culture of peace. Other UN fora, including the Tripartite

Forum on Interfaith Cooperation for Peace and the Alliance of Civilizations, confirm the worth of interfaith dialogue as a tool for peace-building. Similarly, the Asian-Europe Meeting (ASEM) has incorporated inter-religious dialogue as part of its work and has issued several statements over the past years with recommendations to participant states for actions to promote peaceful religious coexistence. In October 2007, the then Organisation for the Security and Co-operation in Europe (OSCE) Chairman-in-Office, Spanish Foreign Minister Miguel Angel Moratinos, asserted that open dialogue among people of all faiths and cultures is ‘necessary to combat intolerance and discrimination against Muslims’, an issue of current debate in Europe.

This embrace of interfaith dialogue stems from a collective recognition that ignorance and fear can often stymie healthy inter-communal relationships and undermine policies seeking to promote pluralism. Interfaith dialogue, then, can be a means to bolster policies protecting and promoting minority rights and multiculturalism in diverse societies. If pluralism is understood to be an environment in which diverse religions live side by side with mutual respect and open engagement (in contrast to mere religious tolerance, in which a religious community ‘puts up with’ other religions but does not necessarily respect and engage with them, or to strongly secular societies in which religious practice and identity are disrespected or even suppressed), then interfaith dialogue serves to encourage pluralistic environments by facilitating individual contact and relationship-building, allowing participants to transcend doctrinal differences. All may not agree with one another at the conclusion of an interfaith dialogue session, but ideally most participants will understand and appreciate the different viewpoints of others. Most importantly, participants may recognize one another’s dignity and so be subsequently committed to finding ways to live peaceably together and to develop rights-respecting policies that do not infringe on the world view and practices of particular communities (as long as those practices do not cause harm to others). This can go a long way in challenging negative stereotypes and biases held by the participants themselves, and will also, ideally, grant them the ability to recognize and confront negative stereotypes and biases in their communities. This is important in so far as negative stereotyping and bias can create an environment in



**Left:** The hospital chaplain visits a patient at Nazareth Hospital where Christian, Jewish and Muslim doctors work together. *Robin Hammond/Panos.*

violations are morally legitimized as necessary to achieve a sacred end). Thus, a political dispute is transformed into a religious activity in popular consciousness. In response to these dynamics, scholars such as Appleby acknowledge the ambivalence about violence inherent in many religions, and call for programmes that can tap the sentiment that religion manifests and apply that zeal towards peace-building rather than warfare. To do so, he argues for greater resources in religious education being applied towards moral and philosophical commitments to pro-social values, including peace and tolerance. Through greater understanding of the religious commitments to peace that can be found in all the major faith traditions, Appleby speaks of creating a movement of peace and non-violent resistance committed to these values, motivated by spiritual sentiment, and able to counter violent or unjust religious movements. In so doing, religious leaders can become social critics, advocates of the oppressed and monitors of rising conflict.

Scholar Marc Gopin presents religion's role in conflict as a means by which individuals in a faith community interpret their reality and the struggles they face. Gopin draws on his experience working in Israel and the Occupied Palestinian Territories (OPT) as a participant in conflict resolution processes that include religious leaders from all sides of the conflict. In the face of extraordinary suffering and insecurity, many individuals use religious beliefs, stories, values and sentiment to understand their situation, define their interests and goals, and mobilize continued energy for their own struggles.

Gopin recognizes that the crux of the greatest conflicts in the modern world is the age-old tension between integration (and globalization) and maintaining uniqueness. He argues that a peaceful religion is one that maintains a solid sense of identity alongside and with respect for other traditions. As such, an element of religious peace-building should entail finding the resources within each religion to promote this form of identity as opposed to an exclusivist and violent religious identity. This leads to the suggestion for peace-makers (both religious and secular) to immerse themselves in the traditions

and world views of those in conflict, in order to discover how to engage and encourage more positive interpretations. This can guide warring communities towards understanding, through the language of religion, how the enemy can be seen afresh, in a manner that will not collapse the entire meaning or structure of one's own faith tradition.

For both Appelby and Gopin, the key to counteracting the destructive role of religion in fuelling violence is found within the religious traditions themselves, rather than through eschewing religion in favour of purely secular practices. Essentially, they postulate that in those places where community members are interpreting their political and social realities in part or in whole through a religious lens, those seeking to promote pro-social behaviour and attitudes will need to speak to them in their own interpretive language. This will not only address them where they are at, but will also counteract and challenge exclusivist and violent interpretations. Luckily, there is a great deal of material within religious traditions that can be drawn upon for conflict prevention, resolution and reconciliation. Religious leaders, teachings, values and institutions can all be marshalled in these efforts. And this is where interfaith dialogue can be used for peace- and justice-making. Interfaith dialogue is not the only, or even the primary, form of religious peace-making (which encompasses such initiatives as religious leaders serving as local and national mediators, or conflict resolution training in religious schools and institutions), but it is perhaps the most well-known and practised.

At those times when political, social or economic tensions arise, dialogue mechanisms allow for conflicts to be addressed, misunderstandings corrected and solutions negotiated, before large-scale violence breaks out. Former Norwegian Prime Minister Kjell Bondevik spoke in 2009 at a meeting of the Common Word Initiative, a global Muslim-Christian dialogue project. At this meeting, Bondevik recounted how the cartoons published in Denmark in 2005 that caused outrage amongst Muslim communities were similarly published in Norway. In Norway, however, there had been sustained interfaith dialogue in the years preceding. Bondevik noted that, when the cartoons were published, Christian, Muslim, and other religious and political leaders immediately came together, and responded to the emerging crisis constructively. This may have been part of the reason why the

which violence and oppression of particular groups can take place.

Interfaith dialogue can be used at different levels of society, targeting grassroots communities and local leaders, as well as intermediate or senior-level leadership (clergy, academics, policy-makers, etc.). It can be a one-off event but is best done as a sustained series of dialogues. The dialogues can address theological issues (e.g. the after-life, or the nature of God(s) or Truth), general social and political issues (e.g. what religions teach about human rights or governance), and pertinent shared challenges (e.g. climate change, local/national/global conflicts). Interfaith dialogue can be done for dialogue's sake (to build relationships and mutual understanding), or it can lead to collective action taken to rectify a particular social or political problem.

### **Interfaith dialogue as a tool for conflict prevention**

Unfortunately, it is all too common that religion serves as a factor driving or legitimating violence and injustice against other communities. Exclusivist

predilections course through different faith traditions, claiming that one's own tradition is the only or best means to attain salvation; these can create a foundational basis for superiority that can subsequently be drawn upon to legitimate repressive behaviour towards others. Exclusive claims to salvation are not necessary, however, for religion to be drawn upon to justify violence. Myth, scriptural mandate and religious rhetoric used to legitimate some goal, as well as the violence used to achieve it, are dynamics witnessed in many conflict zones.

In his work, scholar Scott Appleby explores how ethno-nationalist movements seeking self-legitimation and mobilization have used religious resources. Appleby asserts that the suppression of the religious sphere in some regions during the twentieth century made faith vulnerable to usurpation by nationalist forces seeking to exploit religious symbols, language and causes. These violent nationalist forces have mobilized deep-seated religious experience and motivation and applied them to political ends, creating religious commitments to achieving political goals through whatever means necessary (i.e. ethical

controversy did not erupt into the level of crisis witnessed in Denmark, argued Bondevik, where there was less history of interfaith dialogue and therefore fewer avenues for, and less trust between, leaders from the two communities to address the crisis expeditiously before it escalated. Similarly, when the Christian community in Kirkuk, Iraq was attacked in April 2009, participants from an interfaith dialogue session held the previous month led a delegation of Sunni and Shia religious figures, who visited local Christian leaders to express remorse, and to ascertain how to reduce violence in the region and promote religious coexistence. They subsequently brought this experience and the ideas generated back to their own communities to encourage restraint and peaceful relations with Kirkuk's minority Christian community.

### Interfaith dialogue and minority rights

The greatest feat interfaith dialogue can achieve is to raise awareness about the perspective and experiences of other groups, particularly minorities. In a society in which one culture or religion predominates, those belonging to it may not have adequate opportunities to connect empathically with persons from minorities and therefore to understand from their perspective the challenges and prejudices they face. Interfaith dialogue can provide this opportunity. With its light framework, ground rules, and the manner in which religion can bring to the fore issues of central importance to individuals and communities, interfaith dialogue can create a space in which to increase majority community awareness about minority concerns. In coming to empathize across traditional lines, participants often find that they have developed greater sensitivity for language and behaviour that are exclusionary, prejudiced or disrespectful, and so are more committed and able to work to eradicate it in their society.

In experiences with interfaith dialogue in Sri Lanka, many participants from all communities have come away remarking on how they have a better appreciation for how other communities have suffered as a result of the conflict, as well as institutional and social discrimination. 'I have had very little opportunity to engage with Buddhist monks in my life,' wrote one minority participant in an evaluation, following a three-day interfaith dialogue session in December 2009 that brought together 35

religious leaders from the majority Sinhala Buddhist and minority Tamil Hindu, Christian (encompassing both Sinhala and Tamil ethnicities) and Muslim communities from the south and east of the island. Because of the decades of conflict, many of these participants had not had many opportunities for meaningful interaction across their identity divides. This is especially true concerning Tamils in the north. He continued:

*'As a result of these three days, I feel they have really come to hear me and to understand and appreciate my community's perspective. We cannot secure minority rights without the Sinhala, and without the support of Sinhala monks in particular. Now I begin to feel it is possible. And as for me, I now realize my belief that all Buddhist monks are anti-Tamil is not true.'*

Interfaith dialogue can promote attitudinal changes. Through gaining new perspectives and information, participants' understandings change. And through experiencing in a safe environment a constructive encounter with someone from a different community, a participant's emotional response to other communities can change. These attitudinal changes are bolstered by the religious nature of the dialogues. When participants discuss their religious beliefs and spiritual experiences, they are likely to speak from a deeply rooted place, from the heart. By engaging at this level, as mentioned earlier, personal transformation is more likely to result, and so commitments to pursuing social justice and peace-making activities will be more deeply rooted.

Many religious traditions have values and teachings that can justify prejudice against other religious traditions and their followers. Interfaith dialogue can explore these teachings honestly, and consider them in light of other teachings and with respect to their implications in particular contexts. Use of interfaith dialogue in Israel and the OPT has helped participants understand how particular teachings, such as about 'chosen people', play out in that particular multi-religious context, and even critically evaluate their own traditions.

Moreover, interfaith dialogue can be used to find religious corollaries to human rights. All religious traditions have values, philosophical and theological teachings, and stories that correspond not only to individual human rights, such as the right to life or freedom of belief, but also to the philosophical

underpinnings of human rights regarding inherent individual dignity. When the Universal Declaration of Human Rights (UDHR) or minority rights principles are examined alongside religious teachings, participants may recognize the sources of these legal proclamations within their own cultures and traditions, and critically examine where there may be tensions between international law and religious beliefs. When conducted among grassroots communities, interfaith dialogue can in this way popularize human rights norms in the wider community, extending the work of creating norms of inter-communal respect beyond elite state officials, lawyers or diplomats.

Finally, interfaith dialogue serves the cause of minority rights by strengthening awareness of and appreciation for religious, ethnic, tribal and cultural diversity within a given society. When the practices and beliefs of minority communities within a society are not well-known, they can be viewed with suspicion and fear. At an interfaith dialogue session in northern Iraq in October 2008, a religious leader from the Yezidi community spent a great deal of energy trying to counteract persistent and historical misunderstandings about Yezidi practitioners worshipping the devil. These rumours, the participant suspected, had spurred some of the discrimination and violence the Yezidi community had faced in Iraq. At the very least, it had reduced the sympathy of those from other communities and their willingness to defend Yezidis and protect their religious tradition's integrity. The participant described the basic theological foundations of the Yezidi faith, responding to others' questions, clarifying misunderstandings and remarking on the long history of the Yezidi community in Mesopotamia. These sorts of encounters can go a long way towards helping communities gain appreciation for cultural and religious diversity in their midst.

### Methodologies of successful interfaith dialogue

Talking about religion, particularly in environments in which religion has propelled conflict and violence, can be a very challenging and sensitive task. If conducted without care, interfaith dialogue can, in fact, worsen rather than ameliorate interfaith relations by bringing to the surface, but not resolving, tensions between communities. Thus it is important to

consider how to design, prepare for, and conduct an interfaith dialogue session so as to ensure its success.

- *Establish ground-rules.* Prior to delving into the dialogue itself, participants should establish a set of ground-rules that will create an atmosphere in which all feel safe to speak openly, and which encourages active and respectful listening to one another.
- *Use secondary or inclusive language.* Facilitators should model and encourage participants to use language that does not demean other religious or cultural traditions. Minority or marginalized communities, in particular, will be very sensitive to scriptural quotations that even subtly criticize other traditions. For example, in the aforementioned interfaith dialogue session in northern Iraq, a passage from the Qur'an was quoted several times by Muslims that encouraged love and respect towards others. In quoting this passage, the Muslim participants were seeking to affirm this value. However, there was a secondary message in this passage that described Islam as the 'culmination' of other faiths. When this passage was quoted, the non-Muslims in the room were made increasingly uncomfortable by this passage's secondary meaning. Finally, a participant from one of the minority religious traditions exploded in anger after this passage was repeated, much to the surprise of many of the Muslim participants. Fortunately, this moment was a ripe opportunity to build greater mutual understanding and empathy when addressed sensitively by experienced facilitators.
- *Sustainability.* One dialogue session alone will not lead to the sort of individual and communal transformation that a series of dialogue sessions can have. Trust is something that is built up over time, and often the first dialogue sessions are only able to address surface-level issues, and avoid very sensitive and important topics. As such, dialoguers should ideally set an expectation and commitment among participants for a series of dialogues.
- *Venue.* Select a site for the dialogue that will be comfortable for all participants, for example, a neutral location that is not affiliated with any one religious tradition.
- *Participants.* Interfaith dialogue must engage religious leadership at the top, middle and grassroots levels, and must target participants other than cler-

gy or traditional religious leaders. Senior religious leadership plays an important role in shaping the religious institutions and predominant religious narratives in a conflict zone (particularly in conservative religious environments), and so they are important to target for greater religious institutional change. In addition, the senior leadership often has greater access to political decision-makers, and so can leverage their influence to exert pressure on political leaders to formulate just policies which contribute to peace. However, these leaders are often more removed from grassroots communities, are less willing to engage in work they suspect may challenge their own institutions, and may not have as much time to engage personally in advocacy or grassroots peace-making work. As such, middle-level and grassroots leadership are also important to target (bearing in mind that younger or lower-level religious figures may not feel free to speak openly, especially in self-critique, with senior members present; however, if the senior leadership involved is openly engaging, this will encourage others to be active). Ordained religious figures are not the only persons who shape religious narrative and institutions however, and if those interested in conducting interfaith dialogue only target clergy, they will necessarily leave out important segments of religious communities. Women, for example, may not serve as traditional ordained religious leadership in many parts of the world, and yet they are often crucial figures shaping religious sensibilities through their active engagement in religious communities, in religious schools and in their family lives, emphasizing particular religious narratives and values to their children. The World Conference of Religions for Peace, based in New York City and affiliated with the United Nations, has a programme that specifically engages women in interfaith dialogues. In Colombia, the Religion and Peace-making Programme of the United States Institute for Peace (USIP) has worked with Catholic and Protestant women who have been energetically engaged in peace work through their churches, building ecumenical relationships that strengthen their work and broaden their network. Interestingly, building these ecumenical relationships in Colombia through dialogue and joint workshops has found greater success working with female church leaders than an earlier project that engaged senior, mostly male leadership. Interfaith

dialogue can also target youth, lay people, scholars or academics, staff of faith-based humanitarian relief, development or advocacy organizations, and so on.

- *Preparation.* In preparing for the dialogue, carefully consider who should be targeted for participation, and select a topic and structure appropriate for that group. For example, if scholars are engaged, the discussion content may delve into theological details. If young people are involved, the focus should perhaps be on personal spiritual experiences. It can also be helpful to conduct separate intra-religious preparatory sessions with each religious community prior to the inter-religious dialogue. This allows participants from each group to explore the topic to be discussed and so familiarize themselves with it, to establish places of agreement and disagreement within their own group, and to explore concerns or hopes regarding the interfaith encounter. Indeed, sometimes these intra-religious encounters can be just as important as inter-religious encounters, if not more so, since members of one tradition can disagree vehemently about what their tradition teaches on particular social or political issues.
- *Move from less sensitive to more sensitive topics.* One goal of interfaith dialogue is to strengthen participants' willingness and ability to critique their own religious group's behaviour regarding how it has lived up to or fallen short of religious values and to understand its impact on other communities. In order to get to a place where such a sensitive task can be done openly, however, there will need to be trust built among participants. As such, it is best to start with less controversial topics and then move to more difficult and sensitive areas.
- *Choose your facilitator with care.* The facilitator plays a significant role in setting the tone, expectations, process and ultimately affecting the outcome of the dialogue session. The facilitator must be someone who is trusted by all participants, can skilfully acknowledge tensions and address difficult moments that arise, can strive to rectify power imbalances, and can model active listening and constructive speaking.

### The limits of interfaith dialogue

Interfaith dialogue is not a panacea for curing injustice and violent conflict. Dialogue alone can-

not transform exclusionary cultures or institutions. Interfaith dialogue must be appreciated as a tool for peace- and justice-making, to be used alongside other tools in the activist's or diplomat's toolbox, such as mediation, community mobilization or non-violent strategic action. When used in this way, it can strengthen these sorts of initiatives. For example, USIP's religious peace-making project in Sri Lanka, which has engaged over 150 Buddhist, Muslim, Hindu and Christian leaders in local conflict analysis and peace-building, has started using interfaith dialogue sessions as a way to build relationships between the members of this network, so as to strengthen the network and ensure its sustainability when facing the inevitable hurdles that will appear in the course of their advocacy work. It has had the added benefit of spurring project ideas by the members of this network for educating their own communities on Sri Lanka's other religious traditions, combating religious bias and strengthening local pluralism.

Dialogue that does not lead to transformations beyond the dialogue room can result in resentments among participants, particularly those of minority or disempowered communities. For the religious, ethnic or linguistic majority group, the gaining of empathy is often a sufficient and appreciated final goal of the dialogue sessions. Members of minorities will desire more than talk, hoping that the majority community will subsequently support efforts to gain greater justice for their communities. In the Sri Lankan case, Tamil and Muslim minority communities often expressed more scepticism about the long-term practical effects of individual interfaith dialogue initiatives than the Sinhala Buddhist majority community did, asking how dialogue would ultimately make a difference in their lived reality of fear and perceived political disenfranchisement. At the same time, as the earlier quote from the December 2009 session in Sri Lanka reveals, minority communities expressed a great deal of appreciation for being able to share their views with Sinhala Buddhist monks, a group with whom they often have little meaningful contact but who are perceived to have considerable influence on local and national political decision-making and popular Sinhala sentiment. Ultimately, when one is using interfaith dialogue as a tool for minority rights protection, one must consider how to engage with the larger community.

### Conclusions

All of the world's religions have been grappling with conflict, injustice and violence for millennia. Not surprisingly, they have all sought to introduce and sanctify practices and values that can reduce these negative social dynamics. One practice, affirmed in the teachings of many religions, is compassionate engagement with those of other communities.

Interfaith dialogue alone will not end conflict and create universal justice. However, as argued in this chapter and as witnessed again and again around the world, interfaith dialogue can be a powerful tool for relationship-building and for strengthening pro-social norms as a means to amplify advocacy and activism. It can also be a powerful ally for nurturing cultural diversity and pluralism, necessary components for securing minority rights. ■

# Religious minorities and the Millennium Development Goals

Corinne Lennox

Christian and Hindu minority girls in Pakistan mainly come from poor families. They struggle to afford basic provisions. They are forced to make difficult decisions about whether or not school should be a priority. Indeed, the motivation for sending girls to school is low. Girls may be vulnerable to violence or kidnapping *en route* to schools by those determined to intimidate, harm or forcibly convert religious minorities. A parochial or state school may be nearby and accessible, but even these are under threat from militant local leaders seeking to close all schools except *madrassas* (Islamic religious schools). Once in school, non-Muslim girls are likely to face discrimination in the classroom for their religious beliefs. That is, if they are permitted to register at all.

Pakistani girls belonging to religious minorities have little prospects for empowerment in the long term either. Pakistani constitutional provisions prohibit these girls from reaching the highest levels of decision-making in government because they are not Muslims; anti-blasphemy laws dissuade many of the country's non-Muslims from speaking out against government policies. Gender and religious discrimination will compound each other to reduce their access to employment, limiting them to the most menial of jobs with the least labour rights protection. Ultimately, Pakistani girls and women belonging to religious minorities are excluded at a very early age from making a contribution to or benefiting from the overall economic and cultural wealth of their country.

The situation of these minority girls is just one example of the issues faced by religious minorities and women from religious minorities worldwide. These issues should be at the top of the priority list for all those involved in reducing poverty and discrimination on a national and international scale. But for people from these minorities, the Millennium Development Goals (MDGs, see Box) are a distant unknown. What is worse is that minorities are not mentioned in any of the 8 goals, 21 targets or 60 indicators intended, among other urgent concerns, to reduce poverty and maternal mortality, and offer universal access to primary education, including for girls. Furthermore, there is no requirement that states collect disaggregated data to measure the progress (or not) of marginalized minority groups when reporting on any of these targets.

But the stakes for countries are high. If these girls do not make it through primary education,

Pakistan will not meet Goal 2 on universal access to primary education. Their lower levels of literacy and higher rates of poverty will also affect Goal 4 on child mortality and Goal 5 on maternal health; and their continued exclusion will undermine Goal 3 on gender equality. The MDGs are meant to be achieved by 2015 – there are only five years to go. With the September 2010 UN MDG Summit in sight – intended, as the UN states, to ‘boost

## Key aims of the MDGs

The Millennium Development Goals (MDGs) are a set of commitments made by governments at the 2000 United Nations (UN) Millennium Summit. The collective aim is to use these goals as the framework for national and international development activities to 2015. The MDGs consist of 8 goals, 21 targets and 60 indicators. The key targets include: the reduction by half of the number of people living in extreme poverty (i.e. on less than US \$1 per day); universal access to primary education, including for girls; reduction by three-quarters of maternal mortality and by two-thirds of under-5 child mortality; a reverse in the spread of HIV/AIDS and malaria; a reduction by half of the number of people without access to safe water and sanitation; and integration of sustainable development principles in country programmes.

Overarching these targets is Goal 8, namely to ‘develop a global partnership for development’, that aims to reform the international trade and financial system. Donor countries report on their contribution towards the MDGs through international development cooperation, while countries in receipt of development assistance report on their domestic progress in fulfilling the MDGs in periodic MDG Country Reports. ■

progress' towards the MDGs – this is a crucial time to consider new approaches that will help narrow the gap between current realities and intended outcomes. This chapter outlines some of the issues and recommends how some of these gaps should be addressed.

Advocates often note that in the UN Millennium Declaration, with which the MDGs are associated, states committed, 'To strengthen[ing] the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, *including minority rights*.' Operationally, this call has not filtered through to state practice on the MDGs. A study presented by the UN Independent Expert on Minority Issues (IEMI) in 2007 showed that of the 50 MDG Country Reports reviewed, only 19 discussed minorities and none did so across the MDGs. Only four reports specifically mentioned religious minorities, and of these, only Nepal and Vietnam discussed inequalities experienced by religious minorities.

But many religious minority groups exist in a precarious position on the margins of society. For those who are poor, religious persecution and discrimination limit their access to poverty reduction initiatives, employment, micro-finance, health services and education. For those in a better economic position, social exclusion and targeted violence nevertheless perpetuate their insecurity, can dissuade them from investing locally and threaten to push them further into marginalization. At all levels, religious minorities have less access to political opportunities to influence the MDGs due to religious-based laws (e.g. on holding political office and on blasphemy) that restrict their public participation.

Such persecution and discrimination against religious minorities creates conditions of injustice, inequality, impunity and instability that are unfavourable for achieving the MDGs, both for religious minorities and for society at large. Religious minorities can neither be full participants in, nor generators of economic growth if they are marginalized or insecure. Without better attention being paid to the particular exclusion of religious minorities, some of the MDGs will not be met. In order to improve low achievements in education, health and poverty, there must be engagement with religious minorities who score lowest on these indicators. If neglected in MDG policies, excluded religious minorities will likely face even greater inequality. If ignored, vio-

lence targeted against them could escalate further to undermine MDG achievements.

Many of the challenges faced by religious minorities in achieving the MDGs are similar to those of other marginalized minorities. Such groups tend to be under-represented in access to political participation, which limits their ability to influence decision-making on MDG policies. They face discrimination in access to employment, schooling, health care, financial services, housing and land rights, all of which impact directly on the achieving of individual MDGs. There is a low level of disaggregated data by ethnicity, religion or language, making inequalities difficult to detect and measure.

Religious minorities can also face particular challenges related to the MDGs. This can stem from the religious identity *per se*, from its social or cultural practices and tenets and/or from practices of the wider society. For example, religious minorities may not be territorially concentrated and would therefore have weaker claims to forms of autonomy (like those sought by many ethnic minorities) that would give them greater control over decisions on issues like health, education and other budgetary allocations pertaining to the MDGs.

### Minority practices and the MDGs

Religious minorities may rely on support from their wider (transnational) religious communities. For example, a shared religious identity can be a source of social capital, enabling members to access jobs or loans that are unavailable in the formal sector and thus helping to address poverty, unemployment and hunger. While this support can helpfully be directed towards MDG initiatives, it can generate resentment from other poor communities who do not benefit. International support can also attract criticism from governments that are motivated politically to label such actions as external interference. The effect on religious minorities is increased discrimination, despite the immediate benefits such co-religionist support can bring towards meeting the MDGs.

Within the religious minority community, certain practices and beliefs can undermine the MDGs. In some religions, beliefs about the status of women may hinder their ability to own land or seek employment outside the family, thus increasing the incidence of poverty. Because of their religious identity, such women are also likely to face discrimination by the wider community when attempt-

ing to access employment or secure land rights. Discrimination between sub-groups in a religion can also be harmful: among Hindus, the caste system bars many low-caste groups from employment or loans; inter-sect violence among some Muslims threatens the security of religious minorities.

Understanding the relationship between religious identity and achieving MDGs is principally about identifying discrimination, persecution and exclusion, but in some cases may also need to consider the religion(s) and the beliefs that attend it. The barriers are both internal and external to the religious community, linked both to the actions *within* the group and the actions *against* the group by society and the state.

Addressing these issues is not a question of restricting religious freedom or promoting assimilation strategies but rather should be understood within the human rights framework. Members of religious minority groups have human rights, including minority rights, which states are obliged to respect. Protection of these rights can help to achieve the MDGs.

### Minority exclusion and the MDGs

Given that religious identity also frequently corresponds to a distinct ethnic or linguistic identity, it can be difficult to isolate religion as the key variable in motivating practices of exclusion. In Iran, for example, communities report that they face discrimination as Sunnis, but also as Kurds, Turkmen and Balochis. Many religious minorities in China are also members of distinct non-Han ethnic groups, such as Hui and Uighur Muslims. Many indigenous groups practise distinct religions but these practices *per se* are not the sole or principal reason for their marginalization. It is also important to note that forms of exclusion on the basis of religion do not always translate into economic or social exclusion, either because the religious minorities are economically dominant or because the restrictions are focused on freedoms to express religious identity and other civil or political rights. There is no question, however, that many religious minorities experience inequalities in development, and that even civil and political rights restrictions can affect prospects for economic and social inclusion. This is particularly evident in regions where religious intolerance has manifested itself as violence against religious minorities, creating conflict situations in which realization of the MDGs is virtually impossible.

### Religious minorities and five MDGs

Practices within and towards religious communities are impacting on the realization of the MDGs for many religious minorities. Key targets in five of the MDGs will be discussed here: eradication of extreme poverty; universal primary education; improved maternal health; reduction of child mortality; and combating HIV/AIDS. Each raises interesting questions about religious practice and the MDGs as well as the marginalization of religious minorities.

The examples are drawn from countries that receive development assistance and are therefore mandated to implement the MDGs domestically. While there is evidence of economic and social marginalization of religious minorities in donor countries (e.g. among some Muslim communities in Western Europe), this will not be the primary focus. Where appropriate, the role of donor countries in integrating attention to religious minorities in MDG cooperation activities will be discussed. The emphasis will also be on religious minorities who suffer exclusion from MDG-related sectors, like health care and employment, rather than on religious minorities who experience only restrictions on their freedom to practise their religion without corresponding social and economic exclusion.

#### Poverty reduction

Goal 1 includes targets to reduce by half the number of people living in extreme poverty and to achieve full and productive employment and decent work for all. For many religious minorities, economic exclusion has resulted in disproportionately high levels of poverty and unemployment. For example, in Nepal, poverty among Muslims is 41 per cent, approximately 10 per cent higher than the average rate, according to the Nepal MDGs Progress Report (2005). China is praised for its success in reducing poverty and helping to reach global MDG targets. In fact, MRG and US-based NGO Human Rights in China (HRiC) have reported that those from ethnic minority regions (populated by several religious minority groups) have seen average incomes increase only from 845 yuan in 1982 to 7,802 yuan in 2000, in comparison with a nationwide increase in average income from 792 yuan to 9,371 yuan; the disparity holds for both urban and rural incomes. Advocates, including HRiC, warn that such inequalities are a source of inter-communal tension. Their concerns

proved valid in Urumqi, Xinjiang province, in July 2009, when riots broke out between Uighurs and Han, resulting in at least 156 deaths. The grievances were rooted at least in part in government policy that is encouraging Han migration to an already poor region, increasing discrimination in access to jobs for local minority Muslim Uighurs.

Discrimination in access to employment is common for many religious minorities and exclusion from the formal labour market is a major cause of higher poverty. State requirements that identity cards denote religion often enable such discrimination. The case of Baha'is in Iran is a testimony to this. In January 2009, the UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, relayed reports from Turkmenistan and Bangladesh that religious minorities faced serious barriers to employment in public institutions.

Religious minorities may have less access to justice, making it more difficult to protect themselves against unfair job dismissals or attacks on their property or businesses. In Bangladesh, human rights NGO Odikhar has documented numerous cases where Hindus have faced indiscriminate (and sometimes violent) seizures of their property with little protection from the police and with the complicity of the government. Land rights can be very insecure for religious minorities; they may easily be displaced from their land or be reluctant to invest in agricultural production on land to which they do not hold formal legal title. Moreover, national laws may not recognize traditional forms of land tenure, further reducing land security.

Religious minorities can also experience weaker access to credit and financial services. Indian Muslims have lower than average access to bank credit, which is particularly worrying given that Muslims rely disproportionately on self-employment for their livelihood, according to the 2006 Sachar Report (named after Justice Rajinder Sachar, who chaired the committee that drafted it).

Another major cause of poverty among religious minorities is the level of government investment in the regions where they live. Such investment is either too low to guarantee basic human development provisions or is of an extractive nature, i.e. intended to take resources out of the region without returning proportionate funding to local development. Chronic under-investment in infrastructure – from market routes to schools and health clinics

**Right:** Bilingual literacy class for Lacandon children in Chiapas, Mexico. *Julio Etchart*

– is a major contributor to low-MDG attainment in minority regions. This has been a problem in Iran, where the natural resource-rich regions of Balochistan and Khuzestan have seen resources extracted while the local population – Sunni Balochis and Ahwazi Arabs (some of whom are Sunni) – continue to experience disproportionately low levels of human development. In the words of one Baloch activist speaking at the UN Forum on Minority Issues in 2009, such, 'systematic, historic and institutionalized inequity and blatant bias have in effect paralysed the Baloch people in making meaningful public participation, in access to employment, education, health, property ownership, housing, social welfare, media and cultural life'.

Tensions also arise between religious minorities and majorities where national government MDG-related policies on poverty and employment are promoting migration to minority regions. In the Philippines, Christian group migration to the largely Muslim Mindanao region has led to resentment among Muslims, who see this migration not only as an economic threat but also as a threat to their religious and cultural identity. In China, Tibetan Buddhist communities have faced a large influx of Han majority migrants to the Tibet Autonomous Region (TAR), following major government investment in the region. While overall development rates have improved, the benefits are not distributed fairly. Due to Mandarin language restrictions for public sector employment, lower levels of education of Tibetans and discrimination against them, fewer jobs go to Tibetans than to Han migrants, the latter decreasing the proportionate share of employment for Tibetans. Tibet lags well behind every other region on key health indicators like child inoculation (69.3 per cent in Tibet compared to a national average of 94.6 per cent) and hospitalized deliveries (less than 40 per cent in Tibet versus an 88.4 per cent national average), according to a UN Development Programme (UNDP) report on China, suggesting that investment benefits have been focused on Lhasa where the 6 per cent Han population (2000 figures) is concentrated. Activists argue that the government is creating conditions that principally benefit Han Chinese and those who assimilate, which may reduce poverty in the long-



term but will do so at the cost of the cultural and religious identity of Tibetans.

Also crucial for some religious minorities is the prevalence of violence against them. In Laos, Hmong (predominantly Christian) have experienced long-standing persecution. Many have sought refuge in neighboring Thailand, where the government is now forcibly returning Hmong asylum-seekers to Laos, despite strong evidence that returnees are detained or tortured by security forces. In Iran, Baha'is are the target of arbitrary arrest, imprisonment and confiscation of property, and are frequently denied access to employment and education. Living under threat of insecurity and violence undermines the ability of families to pursue livelihoods and education, to invest in small businesses and to access basic public services, increasing rates of poverty and mortality that the MDGs aim to reduce.

#### Universal primary education and girls

Two MDG targets relate to education – the first is to achieve universal access to primary education for all girls and boys (Target 2a), and the second is to achieve gender equality in access to primary and secondary education (Target 3a). Religious minorities can face barriers in both cases.

Available figures show that persons belonging to religious minorities can often have lower levels of literacy and education, as well as experience less investment in schools where they predominantly live. In India, Muslim children aged 6–13 years have 74.6 per cent literacy while Hindus in the same age group achieve 90.2 per cent literacy, the Sachar Report says. Likewise, Hindus in Pakistan have a 12 per cent lower probability of attending school than Muslims, the Oxford Policy Management Group has found. In Southern Sudan, which is populated by numerous ethnic groups of predominantly Christian faith (in contrast to the largely Muslim north), the 2004 MDG Country Report reveals that the 'net enrolment ratio (20 per cent) and its ratio of female to male enrolment (35 per cent) are the worst in the world', and 'South Sudan's adult literacy rate is the second lowest rate in the world, after Niger'. Lower levels of education among religious minorities also inhibit access to other rights, such as employment and political participation, and their ability to contribute to general social and economic development.

Education systems can also be used by the state to assimilate religious minority children. Curricula may be imbued with the doctrine of dominant religions and cultures, and may even denigrate religious minorities through the perpetuation of stereotypes

and negative narratives. State curricula can be used as a vehicle for persecution of religious minorities. These have been major concerns for Baha'is in Iran, who report that school curricula are being used to denigrate their faith and to pressurize students to convert to Islam. Furthermore, Baha'i students are regularly expelled from school and denied access to higher education because of their religion, the NGO Baha'i International Community has reported.

Mucha Shim Quiling Arquiza, a Filipino activist from the Muslim minority community, expressed her concern at the 2008 UN Forum on Minority Issues that:

*'In the desire to combat terrorism and implement counter-terrorism measures, [states] have been unwittingly using social institutions such as education, the media and institutions of scholarship to promote a certain political agenda especially to influence its citizens to support its current national security campaigns that have been especially discriminatory to religious and ethnic minorities.'*

In contrast, faith-based schools of many religious minorities are contributing to the realization of universal primary education within these communities. Such institutions provide a vital alternative to poorly resourced public education systems, especially where religious minority children face discrimination in the 'mainstream' classroom. The right to have faith-based schools is protected for religious minorities under international human rights law, which recognizes the rights of all parents to educate their children in this manner. Article 18(4) of the International Covenant on Civil and Political Rights (ICCPR) holds that state parties should, 'undertake to have respect for the liberty of parents ... to ensure the religious and moral education of their children in conformity with their own convictions'. Article 29(2) of the Convention on the Rights of the Child (CRC) recognizes the right of groups to 'establish and direct educational institutions'. Not all states are doing enough to protect these rights for religious minorities.

Religious preferences for the education of girls, and sometimes boys, can inhibit their access to education. Faith-based schools that give less priority to the education of girls, for example, would be working against Target 3a on gender parity. There is a tendency, however, to make blanket assumptions that only the religion *per se* is to blame. The

**Right:** Rohingya refugee women in the Kutupalong camp await medical treatment, Cox's Bazaar, Bangladesh, July 2009. *Espen Rasmussen/Panos.*

issue is not solely a matter for the religious community, and the public education system must be engaged. For example, discrimination against girls in schools may decrease the willingness of parents to enrol their children in the formal education system. In Kenya, MRG has reported that the marginalization of Muslim girls from formal education is being addressed in cooperation with the Mombasa Regional Women's Assembly. Amina Zuberi, District Convenor of the Assembly, has said that they are working with key leaders of the Muslim community to show how improving education of girls can decrease poverty rates of entire families.

Faith-based schools should not be relied on as a replacement for state failures to ensure that religious minorities will achieve Goal 2 by 2015 but can be integrated into a wider state strategy to achieve universal primary education. Parents and leaders in faith communities can be invited to participate in decision-making about the provision of education, to ensure that discrimination on the part of teachers or students, or in the curricula, is tackled at the same time that positive messages about religious diversity are integrated into schooling.

It is vital that the curricula taught in faith-based schools and state schools comply with international human rights standards as elaborated, *inter alia*, in the CRC. The CRC requires that the state shall ensure that education of children is directed to, *inter alia*: the child's 'own cultural identity, language and values ... [to] the national values of the country in which the child is living, the country from which he or she may originate, and ... [to] civilizations different from his or her own' (Article 29.1 (c)); and to 'preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin' (Article 29.1 (d)). Putting in place such measures can reduce discrimination and help to improve enrolment rates towards Goals 2 and 3.

#### **Maternal health and child mortality levels**

The MDGs set targets to reduce by three-quarters maternal mortality and to achieve universal access to



reproductive health. The targets for child mortality aim for a two-thirds reduction in under-5s mortality. The MDGs are closely intertwined, with maternal health contributing significantly to prospects for children's health, and access to reproductive health care services helping to ensure that pregnancies are wanted and healthy for both mother and child.

Many marginalized religious minorities face higher disparities in maternal and child mortality. This is largely due to a lower provision of health care and sanitation services, and less adequate access to food in areas where religious minorities predominantly live. It can also be affected by discrimination and lack of awareness among health officials of cultural practices that may impact on pregnancies and children's health. In China, national child mortality and maternal mortality rates stood in 2000 at 39.7 deaths per 1,000 and 53 per 100,000 respectively; in contrast, in the Xinjiang Uighur Autonomous Region (XUAR) of China, child mortality and maternal mortality rates in 2000 were 65.4 per 1,000 and 161.4 per 100,000, MRG has noted. In the border regions of Burma, where Rohingya Muslims live, more than 60 per cent of Rohingya children suffer from chronic malnutrition, despite reports of a national surplus of rice. State actions have rendered these communities effectively stateless,

putting families into precarious positions for survival. Although it is possible that China and Burma, for example, could achieve their MDG targets while ignoring the situation of religious minorities, such an approach is not only a violation of human rights but will entrench gross inequalities more deeply.

The link between religious practices and maternal and child mortality is not well researched. In some religious communities, beliefs about child marriage or reproductive health could undermine MDG programmes aiming to reduce mortality rates. Religious identity alone is difficult to isolate as a variable and factors such as urban or rural location and gender discrimination will also impact. The 2006 Sachar Report on the status of Indian Muslims found that Muslim women and children in many states had lower than average mortality rates, despite poor access to health care. Another 2006 study (presented at Princeton University) of religious minorities and majorities across India and Bangladesh found that contraceptive use among currently married Muslim (religious minority) women in India is 28 per cent compared to 42 per cent among Muslim (religious majority) women in Bangladesh. These figures suggest that access to reproductive health may be less about religious preferences and more about equal access to health services in general, particularly

where they are not culturally adapted on key issues such as reproductive health.

The issue of reproductive health has generated controversies among leaders of some faith communities. Advocates of family planning sought to ensure that the MDGs would focus on the reproductive health rights of women. For some faith communities, the term 'reproductive rights' is interpreted to include access to abortion or contraceptive services, which are against firmly held beliefs. In the adoption of the MDGs in 2000, there was no target on reproductive health, due to objections from some states, observers (e.g. the Holy See) and some segments of civil society. Since then, efforts by the UN Secretary-General, UN agencies including the UN Development Fund for Women (UNIFEM), the UN Population Fund (UNFPA) and many civil society advocates have introduced an MDG target for reproductive health. Although the target does not mention abortion or contraception *per se*, it is nevertheless viewed by some faith groups as illegitimate. UN agencies, including UNFPA, are proceeding on the basis that access to contraception and reduction in unsafe abortions are among the strategies needed to achieve the MDGs.

#### HIV/AIDS

A halt and reversal in the spread of HIV/AIDS and malaria are among the targets of Goal 6. There is evidence that minority groups are often disproportionately affected by rates of HIV/AIDS and have less access to health services to address the disease. The delivery of health services may be under-resourced in regions where religious minorities live. Religious minorities may also face discrimination from health service professionals when they seek out services. Traditional medicinal practices and remedies, common particularly in animistic religious groups, can also impact – positively or negatively – on treatment of HIV/AIDS, malaria and other diseases. The lack of knowledge of these practices among mainstream health care providers can inhibit the successful use of complementary and conventional medicine.

Research by the Bangkok office of the UN Educational, Scientific and Cultural Organization (UNESCO) into HIV/AIDS public education programmes in the Mekong Delta region found that materials did not impact well on minorities, where the social and cultural practices of dominant groups

were the basis of the campaign message. In other words, in order to reach minority groups, particular attention in HIV/AIDS education must be paid to religious and cultural practices around, *inter alia*, sex and contraception.

This can be challenging for some religious minority groups that may hold dogmatic beliefs regarding sex (especially outside of marriage), contraception, homosexuality or men who have sex with men. MDG programme efforts must take this into account when devising interventions that will contribute to HIV/AIDS reduction among these communities, who, regardless of their religious beliefs, may still be vulnerable. Some faith groups have produced guides for religious leaders on how to discuss these issues. The UN Joint Programme on HIV/AIDS (UNAIDS) has reported that the Islamic Medical Association of Uganda, for example, has successfully cooperated with imams in reaching out to Muslim communities with education projects on HIV/AIDS prevention and services.

#### Recommendations for a minority rights response to the MDGs

With the September 2010 UN Summit to review progress towards the MDGs in sight, this is a crucial time to adopt new approaches that will help narrow the gap between current realities and intended outcomes. Indeed, the MDG framework has much to offer marginalized religious minorities. If governments are genuinely committed to universal primary education, the inequalities in access to education experienced by many minorities can be eliminated. Their lower access to health care, housing and employment can be improved. Such gains will not come easily. Addressing the marginalization of minority groups means exposing deeply entrenched discrimination and transforming structures of power built to exclude minorities.

In policy spheres, there has been little in the way of systematic analysis of minority group exclusion from the MDGs and even less attention specifically given to religious minorities. The work of the IEMI and MRG is an exception. Research on religious minorities focuses overwhelmingly on civil and political rights violations linked to restrictions on freedom of religion; the social and economic dimensions of exclusion are insufficiently publicized. In her most recent report, however, the UN Special Rapporteur on freedom of religion or belief

dedicated a 2009 section of her UN report to a preliminary review of some economic and social rights issues faced by religious minorities. This research appears to be the start of a wider effort under the mandate to examine MDG-related issues. Indeed, the UN Human Rights Council (HRC) endorsed this effort by adopting a resolution (10/25) in 2009 on 'Discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights'.

Governments need to create the necessary enabling environment, whereby all citizens can achieve the MDGs. This means eliminating forms of religious persecution, harassment, violence and discrimination that generate instability and conflict. Strengthened rule of law, impartial policing and greater freedom of expression are integral to development and will establish stronger investment confidence and opportunities in the local and national economy. With their personal security protected, and their jobs, businesses, homes and land more secure, religious minorities will be better able to focus on building prosperity for their families and for the wider community without fear.

Another important starting point for better attention to religious minority exclusion is systematic analysis of the economic, social and political status of these communities in key aid modalities. National action plans for poverty reduction and education for all, for example, should include measures for inclusion of religious minorities. Ministries with MDG-related responsibilities, such as on health, education, employment, justice and environment, should be offered capacity-building to combat discrimination against religious minorities and improve operational knowledge of how each sector can increase minority inclusion. Poverty Reduction Strategy Papers (PRSPs) and the UN Country Teams' Common Country Assessments and UN Development Assistance Frameworks need to review the situation of religious minorities and integrate programme responses where marginalization is evident.

Three rights of minorities should inform MDG policies aimed at including religious minorities: the right to non-discrimination, the right to participation and the right to protection of (religious) identity. These should be mainstreamed into a broader human rights-based approach to the MDGs. The capacity of both minorities and majority groups

involved in MDG work needs to be strengthened to meet these objectives.

Given that discrimination is a key barrier in achieving the MDGs for religious minorities, efforts by governments and development organizations to prevent such discrimination need to be prioritized. Religion is a prohibited ground of discrimination under the International Covenant on Economic, Social and Cultural Rights (ICESCR), impacting on several MDG issues such as health (including reproductive health) (Article 10), education (Article 13) and employment (Article 7). State parties have an obligation to revise their domestic legal frameworks to ensure that discrimination on the basis of religion is clearly prohibited and that remedies to redress discrimination are easily accessible to religious minorities. They also have an obligation to ensure substantive realization of non-discrimination, even where legal frameworks are good. Unfortunately, some states have promulgated laws and policies that adversely affect the ability of religious minorities to achieve the MDGs: laws pertaining to blasphemy can inhibit the ability of minorities to challenge government policies on development; requirements for religious education in schools can dissuade minority parents from enrolling their children; and prohibitions on religious dress can deny minorities education and employment opportunities. Such policies may be based on deeply entrenched beliefs and backed by powerful interests. Here the role of international development organizations in calling for national counterparts to pay attention to exclusion and discrimination against religious minorities may help to tip the balance in favour of reforms. Beyond the clear human rights obligations, there is also a compelling economic argument to be made: protection of religious minorities in law and in fact improves stability and creates a better environment for investment and growth.

Discrimination – both direct and indirect – can be monitored through the collection of data disaggregated by religious identity (and gender). The 2010 MDG Summit can recommend that national statistics offices take the lead in developing systems to gather information to supplement the existing 60 indicators for the MDGs. Impact assessments of MDGs programmes should be adopted as mandatory for determining in advance how interventions might help or harm religious minorities. Even where resources are limited, governments can develop

periodic surveys that will review key indicators of religious minorities' status in relation to the MDGs. Some religious minorities may have concerns about data collection and self-identification if they have been targets of violence or discrimination in the past. For this reason, religious minority staff should be involved in all stages of this data collection process, from designing and delivering surveys, to evaluating results.

Tackling inequalities created by discrimination may require targeted MDG programmes for minorities. Policy-makers often express concerns that targeted programmes can create inter-communal tension, particularly where poverty and other forms of inequality also exist among members of dominant groups. This is a legitimate concern, but it must not be used as a veto for targeted interventions where they are justified by data showing disproportionate inequality, are transparent and are supported by consultations with minority groups. There is a strong legal basis for such programmes in international law, which recognizes the possibility of special measures like affirmative action programmes. Such measures will help to tackle the barriers that religious minorities face in equal access to health, education, employment and financial services that are linked directly to MDG achievement. There are also firm commitments made by states in the context of the 2001 World Conference Against Racism Durban Declaration and Programme of Action to adopt National Action Plans in order to address racism and discrimination. The adoption of affirmative action or targeted policies must be accompanied by full implementation. In Greece, for example, the government has approved a 0.5 per cent quota for Muslim minorities in the civil service, but poor implementation means it has had little impact on the unemployment rates of Muslims – estimated to be as high as 60 per cent in Western Thrace, according to a 2009 report from the European Commission Against Racism and Intolerance (ECRI).

The right of minorities to participate in decision-making that affects them is a cornerstone of minority rights standards. Participation of 'stakeholders' is increasingly mainstreamed into development processes, but it is far less common to find measures that enable minorities, including religious minorities, to be included in such processes. This is essential to ensure that MDG programmes will be

effective for religious minority groups and will not create further inequalities unintentionally that might undermine MDG objectives. Speaking at the UN Forum on Minority Issues in 2009, Wahyu Effendy of the Indonesian Anti-Discrimination Movement (GANDI), said, 'Political participation [of religious minorities] needs as a precondition government protection of their existence and participation.'

There is a wide range of options for realizing the right to participation in practice. At a minimum, public education on the MDGs should be made available to religious minorities, and they should be included among any civil society consultations on the MDGs, particularly in regions where such minorities live. Any existing National Minority Councils should be invited by relevant ministries to engage in MDG-related development planning. In India, for example, the National Commission for Minorities has intervened in several cases to secure protection for religious minorities' educational institutions guaranteed by the Constitution, thus helping to secure Goal 2 and contribute to Goal 1.

Forms of autonomy for religious minority groups can also be helpful for the MDGs. In many countries, minority groups have been granted autonomy over sectors that impact directly on the MDGs. Non-territorial forms of autonomy, such as support for the development of school curricula on issues of religious diversity or management of micro-finance institutions, can be devised in line with MDG programming. Territorial forms of autonomy, where religious minorities are regionally concentrated, can enable even greater empowerment for minorities to deliver on the MDGs. In China, the 1984 Law on Regional Ethnic Autonomy includes, since 2005, stronger provisions enabling poverty reduction, access to education and sustainable development for ethno-religious minorities, such as the Uighur Muslims, MRG has reported. Such support of territorial or non-territorial autonomy can help to achieve the MDGs, provided it is implemented in good faith and its impact is monitored with data disaggregated by (religious) identity and made publicly available, *inter alia*, in MDG Country Reports. Building capacity and opportunities for religious minorities to manage MDG initiatives will also increase participation. Training on budget monitoring is one example.

The protection of identity is a crucial concern in the daily lives of religious minorities. Persecution on

the basis of religious identity can severely threaten the ability of individuals to live their lives in security and freedom. Getting a job, running a small business, going to school and getting basic public services can all be undermined when expression of religious identity becomes a cause of insecurity. Governments should show leadership in: promulgating zero tolerance of religious intolerance in the public and private sectors; redressing impunity for violence against religious minorities; and increasing efforts to protect religious minorities from violent attacks and other forms of injustice.

MDG programmes that do not give due assessment to the influence of religious identity and practices on realizing the goals can be wasting (already limited) resources. Development interventions that appear identity-neutral can either miss religious minorities or harm them. Using mechanisms of participation, religious minorities can inform policy-makers of how identity issues may impede their ability to benefit from MDG projects and can offer recommendations on how to make MDG interventions more compatible with their own daily needs.

While some religious practices and beliefs, such as giving to the poor or enabling literacy, can help realize the MDGs, there are other religious practices and beliefs that can undermine them. MDG policy-makers need to be sensitive to these possibilities and reach out to faith groups in an effort to ensure that human rights obligations are not violated in the name of religious dogma. At the same time, individual negative practices within religious communities must not be used as justification for any outright prohibition of religious expression.

It is important to mention the positive role played by faith groups in supporting the MDGs. There have been several interfaith initiatives to raise awareness of the MDGs and direct action by faith communities to help realize the goals through community cooperation initiatives and advocacy. Religions for Peace, the largest interfaith global alliance, has produced a *Millennium Development Goals Toolkit for Religious Leaders* (2007), in cooperation with the UN Millennium Campaign. The Micah Challenge is an international North-South alliance of Christian churches and agencies in 40 countries advocating greater government compliance with the MDGs. Faith-based development organizations have also been leaders in realizing the MDGs. In Tanzania, for example, the Aga Khan Foundation

has successfully supported community health clinics to improve child and maternal mortality rates, and HIV/AIDS testing and counselling. These positive actions do not eliminate concerns that some development initiatives by faith-based actors can be a tool for co-opting vulnerable communities to new or more extreme religious doctrine. Such practices can be avoided by transparent cooperation with government at all levels to enable religious minorities to participate in decision-making that affects them and equitably access resources for human development. Leaders of all the major world religions have shown a great commitment to the MDGs, and this outreach can be a platform for dialogue on contentious issues.

## Conclusions

MDG Country Reports urgently need to be revised to incorporate discussion of the legal framework for protection of religious minorities and national measures to ensure that religious minorities are benefiting equally from progress towards the MDGs. The silence on these points in MDG Country Reports to date is chronic. The collection of disaggregated data for religious (and other) minorities needs to be prioritized by international and national development actors alike. Opportunities for religious minority actors to influence and implement MDG-related initiatives should be implemented.

There is great scope to use the minority rights framework to improve the effectiveness of MDG policy interventions. This is not only good practice and fiscally responsible but is also a fulfilment of state obligations under international human rights and minority rights standards.

If religious minorities are excluded from the MDGs, not only will the purpose of the goals be undermined, but the conditions for their long-term sustainability will seriously be in doubt. Investing in the human capital within religious minority communities and ending persecution and discrimination on the basis of religion will contribute to better development for all. ■

# Balancing women's rights with freedom of religion: the case against parallel legal systems for Muslim women in the UK

Zohra Moosa

**H**ow well a country responds to the needs of its religious minorities is an important question for states, not least because while the right to religious freedoms is enshrined in international law, the ability to access this right depends on the national laws one is governed by.

Sometimes the perceived importance of ensuring religious freedom is so strong it can overshadow the need to preserve other rights. For many women from religious minorities around the world, this has been a rather common experience. Rina Verma Williams has discussed, for example, how the debates over reforming Islamic law in India in the 1980s were framed as being about religious identity and minority rights to the exclusion of gender rights, even by the Indian government. The consequence of this, she argues, is that the legislation that was passed has not benefited Indian Muslim women. In cases such as these, where the price of religious freedom is that half the minority population lose out on other rights, can countries be said to be delivering religious freedom with any success?

Such sacrifices of gender rights are a not infrequent occurrence in efforts to preserve religious freedom. Therefore, it is useful to examine the experiences of women from religious minorities as a way of assessing how well countries are responding to the needs of their religious minorities. Using women's rights as a baseline indicator helps us judge whether countries are able to provide for the needs of religious minorities at a sophisticated enough level that women from religious minorities benefit equally – as both belonging to religious minorities and as women.

Western Europe and Canada have witnessed several controversies concerning this balance between women's rights and the rights of religious minorities in recent years. Some of the most heated and high-profile of these debates have been about Muslim women generally, and 'the veil' in particular. Such a debate has been ongoing in France, for example, since June 2009, when the government said it would consider banning *burqas*. At the beginning of 2010 the leader of the ruling party filed draft legislation banning garments that cover faces in public – referred to as an 'anti-*burqa* law' in coverage of the story in the mainstream British press.

Looking at how certain industrialized countries treat Muslim women can reveal some of the challenges states face in integrating religious minorities

into mainstream society, as well as in ensuring that women from religious minorities are treated fairly. The details will be different in different places, and the experiences of religious minorities as well as different countries will also vary, of course. But one of the fundamental questions at stake will be the same: can women's rights be balanced with religious freedom?

This chapter focuses on the experiences of Muslim women in the UK and Canada, in order to explore some of the issues. In the last few years, both countries have been grappling with the question of whether and how Sharia courts can be incorporated into the laws of the land by focusing on what this would mean for Muslim women. The chapter begins by examining some of the challenges faced by Muslim women living in the UK, in order to explain why some Muslim women may want to use non-mainstream legal options – what I call parallel options – such as Sharia courts to resolve their concerns. The chapter then goes on to outline some of the pitfalls of these parallel options, drawing on the arguments of those Muslim women who organized against the introduction of Sharia laws in Canada. It finds that parallel options can present a false solution to women from religious minorities, asking them to trade gender rights for religious freedom.

The chapter concludes that allowing such systems to operate risks excusing the state from its responsibilities to protect Muslim women's rights. It suggests that the best way to prevent the marginalization of religious minorities is to ensure that they have access to the same rights, as well as the same access to negotiating those rights, as those in the mainstream.

## Muslim women in the UK

Muslim women living in industrialized countries are at risk of what is known as 'multiple discrimination', because they are women, and belong to religious minorities and often also ethnic minorities. In addition to the risk of discrimination on each issue separately, they are also open to discrimination from all of them at the same time. Muslim women can also experience discrimination that includes more than one of their identities in ways that produce an entirely new form of discrimination. The French example above would affect Muslim women who wear full-face veils as Muslims and as women, for

instance, and would also be particular to them – the same legislation would not affect anyone else in society in the same way.

As a result of their multiple minority status, Muslim women within Britain experience some of the most extreme forms of disadvantage and social exclusion. According to a report called *Black and Minority Ethnic Women in the UK*, published in 2005 by the UK-based campaigning organization the Fawcett Society, two-thirds of Pakistani and Bangladeshi women, approximately 60 per cent of whom are Muslim, live in poverty; this is three times the proportion of Caucasian women. Muslim women are under-represented in elected office at all levels of government. For example, there had never been a Muslim woman Member of Parliament until two were elected in 2010. Muslims are the faith group most likely to be out of the paid labour market, while Muslim women are particularly likely to be outside it; according to the latest government statistics, about two-thirds of Muslim women are currently not in the paid labour force compared to a quarter of women overall. Meanwhile, the unemployment rate for Muslim women is 23.3 per cent compared to 6.9 per cent for all women. And there is ample evidence to show that women experience a marked ‘Muslim penalty’ in the labour market that becomes more pronounced the more ‘Muslim’ they appear to be, for instance, through their dress choices. Evidence includes the two-year *Moving on Up?* investigation by the Equal Opportunities Commission, a statutory body, and the Young Foundation’s independent research findings, published in 2008 as the *Valuing Family, Valuing Work* report.

Muslim women are also at risk of very specific kinds of violence and marginalization because of racism and Islamophobia in the UK. Muslim women are currently particularly vulnerable to abuse, persecution and discrimination in the public arena because of wider security and political agendas related to the ‘war on terror’ (see the chapter ‘Religious minorities in a post-9/11 world’), as the book *Muslims in the UK: Policies for Engaged Citizens*, by the New York-based Open Society Institute (OSI), acknowledges.

In addition, Muslim women, like all women, are at high risk of specific forms violence. But attempts to understand and address this gender-based violence are often filtered through the lens

**Right:** A young woman receives counselling at the Islamic Sharia Council in Leyton, England, July 2009. Tom Pilston/Panos.

of ‘Muslimness’ by policy-makers, the media and public opinion. One result of this is that the mainstream only hears about violence against Muslim women that can be associated with being Muslim, such as forced marriages and so-called ‘honour crimes’. Another result is that public discourse on these forms of violence blames and demonizes Muslim communities, suggesting that Muslim women are at risk of these forms of violence because of ‘backward cultures’.

In this way, certain types of violence against Muslim women are treated as having to do with belonging to a religious minority, masking the role of sexism and patriarchy in such violence – in effect incorrectly diagnosing the problem. As the Fawcett Society’s 2010 report *Realising Rights: Increasing Ethnic Minority Women’s Access to Justice* notes, when politicians also fall into this trap of primarily blaming ‘culture’ for violence against Muslim women, they ignore the ways in which they are failing to protect a group of their citizens by, for example, ensuring that the police treat all victims and potential victims fairly. As a result, Muslim women remain at risk of those kinds of violence that are painted as ‘cultural’, and are encouraged to believe that the government and the British legal system will not or cannot help them.

### The appeal of parallel options

It is not uncommon for countries to provide different legal routes for different groups of people within the same country. Such parallel options exist to ensure that minorities, such as religious minorities, are fully able to practise their religions or other cultural norms and to avoid imposing majority laws that would directly or indirectly discriminate against them. The range and types of parallel options can vary enormously in different contexts. Some countries have very separate systems of family law for example, while others have supplementary systems for only parts of the legal system or only certain groups of the population.

In the UK, there are a number of instances where Sharia alternatives to mainstream services are legally available to Muslims. British food regulations have been adapted to allow Sharia-compliant



animal slaughter, for example, and the Treasury has approved financial products such as mortgages that are Sharia-compliant. More controversially, Muslims are also allowed to use Sharia courts for mediation and arbitration purposes under existing British law. Under the Arbitration Act 1996, for example, Sharia courts have the power to resolve civil disputes between Muslims. Although the National Secular Society (NSS) argues that these powers are not permitted to extend to areas of family law, there have been reports in the British press that Sharia courts have been issuing rulings on divorce that are being enforced under UK law. According to the NSS, women who do not know their rights may similarly believe that the rulings, which are not necessarily regulated once both parties have agreed to be subject to them, are legally binding and may therefore be operating as though they are in their day-to-day lives.

Where Muslim women are facing extreme disadvantage, discrimination and marginalization in the UK, it is entirely practical for them to seek a new or different way of accessing their entitlements and rights, or to achieve redress or legal recourse. In addition, against a backdrop of racism and Islamophobia, it is perhaps not surprising that the question of introducing separate mechanisms for justice for Muslims crops up. Moreover, where the

public discourse seems to suggest that Britain is either mostly secular, or, if not, Christian, and perhaps even hostile to Islam, it is not unreasonable for Muslims to reflect on their options for maintaining strong ties to their religion and beliefs as minorities.

Research has found that it is these two needs that motivate Muslim women to use informal Sharia courts for arbitration in the UK. According to the BBC, in February 2008, the overwhelming majority of cases that the Islamic Sharia Council (ISC) deals with are about divorce, generally filed by women looking to leave their marriages. Many of these women have reportedly either been forced into marriage, or else are stuck in a marriage because their husbands are not willing to divorce them under Islamic law, the BBC stated.

In a 2001 empirical study of all the matrimonial cases conducted by the Muslim Law Sharia Council (MLSC) in London, Sonia Nurin Shah-Kazemi found that out of just over 300 cases, there were 28 forced marriages and a number of marriages that had only been carried out Islamically, without also having been conducted under English civil law. In her book *Untying the Knot: Muslim Women, Divorce and the Shariah*, Shah-Kazemi discusses how the importance of religion and religious identity for these women are key reasons why they use Sharia

courts for divorce. Even where they might be able to secure a divorce under English civil law, if they do not divorce under Islamic law, they, their family or local community members, who have a large impact on individual behaviour, may feel that the divorce is not complete and that they are still married.

Further, according to a paper published by the Canadian Council of Muslim Women in 2005 entitled, *The Reception of Muslim Family Laws in Western Liberal States*, most of the cases the ISC dealt with stem from this exact situation: women, who had already obtained civil divorces but whose husbands had not consented to Islamic divorces, were appealing to Sharia courts to secure their Islamic divorces.

### The costs of separation

It is clear that informal Sharia arbitration courts are offering something of value to some Muslim women in the UK. However, and as Muslim women's organizations in Canada have successfully argued (see below), these courts can also come at a cost for Muslim women precisely because they are parallel, rather than mainstream, options.

Unfortunately, Sharia courts are not free from wider sexist tendencies in society. In her journal article, 'Muslim women and "Islamic divorce" in England', Lucy Caroll uncovers some evidence that Sharia courts in the UK favour men's perspectives by requiring wives to pay money to their husbands, or return jewellery and money given as marriage gifts, in exchange for divorce. As a result, some Muslim women are effectively being held hostage in their marriages until they can pay for their freedom. Given the statistics on Muslim women's poverty and access to work quoted above, being able to afford divorce against a husband's will may prove impossible and accessing the financial means through family members may represent a significant barrier because of stigma, for example, discouraging women further.

Under the guise of religious obligations, Sharia courts also risk limiting Muslim women's choices. The idea that Sharia courts provide a useful function for Muslim women seeking Islamic divorce reinforces the notion that Muslim women need to secure Islamic divorces to be 'truly' divorced in the eyes of their religion. Without this religious acceptance of their divorce, some Muslim women may believe they cannot remarry, for example. Yet Caroll explains in some detail why Islamic divorces

are, in many cases, not actually necessary at all in the UK. Because marriage ceremonies in the UK must be conducted in a 'registered building' to be valid, the civil marriage ceremony generally precedes any Islamic one. Once married under civil law, the author explains:

*'the nikah then becomes merely a ceremony of religious celebration and blessing, legally without significance in either English or Muslim law as far as the status of the parties is concerned: a man can no more marry a woman to whom he is already married in Muslim law than he can in English law.'*

In these cases, a civil divorce is sufficient from a legal perspective, and would even be recognized in Muslim countries. It is therefore important to ask: whose interests are being served by the myth that additional Islamic divorces are necessary? Sharia courts are proposed as a means of negotiating between the majority rules and minority religious needs. But, as Maleiha Malik writes in her essay in the 2005 book edited by Madeleine Bunting, *Islam, Race and Being British*: 'This recognition of external hierarchies should not blind us to the fact that there are also power hierarchies within groups.'

### Muslim women's experience in Canada

It was to challenge such myths and gender bias that Muslim women's organizations in Canada mobilized against the proposed introduction of Sharia arbitration courts into the Ontario legal system from 2002 to 2006.

According to the National Association of Women and the Law (NAWL), the controversy over the proposal intensified in 2003, when the Ontario Islamic Institute of Civil Justice announced its intention to use the courts to conduct binding family law arbitrations in accordance with Islamic law. Concerned about the impact such faith-based arbitration would have on women's rights, the Canadian Council of Muslim Women (CCMW) took a public position challenging the idea that religious freedom required a parallel system of law and pointing to the threat to women's rights such a move could entail, saying:

*'CCMW sees no compelling reason to live under any other form of law in Canada, as we want the same*

*laws to apply to us as to other Canadian women. We like the Charter of Rights and Freedoms, which safeguard and protect our equality rights. We know that the values of compassion, social justice and human rights, including equality, are the common basis of Islam and Canadian law.'*

In response, the Ontario government appointed Marion Boyd to analyse the problem and propose a way forward. CCMW commissioned two studies with which to try to lobby Boyd: *Applicability of Sharia/Muslim Law in Western Liberal States* and *Family Arbitration Using Sharia Law: Examining Ontario's Arbitration Act and Its Impact on Women*, the second one jointly with NAWL and the National Organization of Immigrant and Visible Minority Women (NOIVMW). In a press release about the studies' findings, CCMW argued, 'Separate arbitration tribunals to settle family matters under Sharia/Muslim family law will ghettoize and further marginalize vulnerable women.'

Nevertheless, in her 2004 report *Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion*, Boyd recommended allowing faith-based arbitration within Ontario's family law.

Following publication of the report, CCMW and other women's groups began to campaign against the Ontario government adopting the recommendation. NAWL published a position paper analysing the negative impacts of the proposed faith-based arbitration for women's rights, *Arbitration, Religion and Family Law: Private Justice on the Backs of Women*, arguing:

*'When the resolution of family law matters is relegated to the private domain of arbitration with no limits, there are serious threats to the equality rights of certain vulnerable groups such as women.'*

Soon after, NAWL sponsored an international conference entitled International Perspectives on Faith-based Arbitration. The conference led to the creation of the No Religious Arbitration Coalition, which issued the Declaration on Religious Arbitration in Family Law that was signed by over a hundred groups, of which the CCMW was the first. The text specifically appealed to international agreements on gender equality to challenge the notion that religious freedoms should trump women's rights, saying:

*'We are supported by an international coalition of groups watching closely the Ontario government's decision in relation to Boyd's report. Their concern for the potential erosion of women's rights within constitutional democracies based on religious justifications is in keeping with the provisions of the Canadian Charter, and with international agreements (i.e. the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Declaration on the Elimination of Violence Against Women) to which Canada is a signatory. We demand that the Government of Ontario both understand the intent of these agreements and ensure that domestic laws and regulations are not in contravention of them.'*

Eventually, and after much public debate, the government of Ontario decided to disallow the use of faith-based arbitration in family law. On 14 February 2006, it passed the Family Statute Law Amendment Act, which states that all arbitration under family law in Ontario should be conducted in accordance with Canadian (including Ontario) law only.

### Muslim women as mainstream not marginal

Although parallel options such as Sharia arbitration courts can seem to provide Muslim women a way to have the best of both worlds – practising their religion while continuing to have all their rights preserved – they risk being a false solution if and when these courts operate outside the mainstream system and national legal scrutiny. In effect, Muslim women are pressured to trade between their rights as women and their rights as religious people.

Some Muslim women will perceive the choice as follows. They can either be Muslims, using Sharia courts that flow from their religious convictions but risk sexist outcomes, or they can be women, getting their divorces from the UK or Canadian legal system that do not necessarily correspond to Islamic thinking but which are formally scrutinized. To be fair, there are still problems of sexism within, for example, the UK legal system, as the UK government's own Corston Report confirmed in 2007. Sometimes this is mixed with a culture of institutional racism, namely the idea that 'their culture allows violence against women'; this is an example of the issue being seen through a filter

of ‘Muslimness’, as described above. But asking Muslim women to be either Muslims or women, as if this is an easy or even possible choice – for some women will feel that it is not – is not a fair request to make. Muslim women are entitled to all of their rights as complete people, and it is the government’s responsibility to provide them.

Providing separate parallel options excuses governments from having to think about how to integrate the needs of religious minorities into the mainstream. It also reinforces the view that religious minorities should negotiate for special accommodation, because the rules of the game are made without bearing in mind their needs or priorities. Moreover, such accommodations end up happening in parallel rather than being integrated. Any adaptation to the needs of religious minorities in this situation is seen as an adjustment of the norm, as if the norm were neutral rather than constitutive of a dominant paradigm that serves those not in a religious minority. Thus, where the core laws that apply to all are not fundamentally altered, religious minorities are seemingly offered the choice of either using parallel options and being marginalized or using mainstream options and sacrificing their religious beliefs.

For Muslim women, this means that their rights and priorities are treated as ‘special interest’ rather than mainstream by decision-makers. This divides the treatment of Muslim women from how other, non-Muslim women are treated. The UK’s parallel option allows a government’s progressive ideas on women’s rights to be suspended suddenly when it comes to Muslim women because they are ‘different’. In practice, this means that compromises are offered legislative, legal and policy scope for those Muslim women who choose to prioritize their religion, when such compromises would not be acceptable for non-Muslim women, given that they risk leading to sexist decisions. In any case, non-Muslim women would be more readily able to seek recourse in the regular court systems for sexist outcomes.

Muslim women have the right not to be discriminated against for their religious beliefs and they have the right to practise their religion too. But Muslim women also have rights as women. Countries that have religious minorities need to treat the needs of women from these groups – as both women and as members of religious minorities – as a central issue. Governments must take responsibility for the needs of *all* their citizens,

not just the ones that are in the majority or that fit the majority’s rules. Muslim women are not part-time citizens.

It is clear that the rules are not working for some people, so a change of system is called for. Obviously minority groups have less power and influence, so governments should be careful about demanding unfair adaptations from people, and human rights laws can help in this area. But ultimately, countries will be stronger, and the rules work better, when they are able to meet the needs of all the people who are bound by them.

A state system that sets itself up as beyond, or not geared towards, religious thinking will present a barrier to those whose lives are lived in religious belief. When those people, in addition, belong to a minority of even those who are religious, the challenge can be compounded. But separate parallel systems for religious minorities are only a temporary solution; they allow governments to avoid having to change to meet the needs of people who are different. They also take power away: Muslim women are encouraged to settle for minority systems and fend for themselves instead of trying to change the mainstream system to meet their needs.

Muslim women in Canada have successfully organized against the introduction of separate parallel systems, in particular the use of Sharia courts for arbitration. Their efforts are useful to consider not only because they revealed the diversity of opinion that exists within the grouping ‘Muslim women’, shattering the notion that Muslim women are an undifferentiated mass, but more importantly because they pushed the state to recognize how it was failing to deliver women’s rights to them. In successfully demonstrating how Muslim women’s rights are women’s rights, just as other women’s rights are, they brought into the mainstream the notion that minority demands are legitimate claims on the state that the majority should be concerning itself with.

## Conclusion

The experiences of Muslim women in Canada and the UK provide several lessons on how industrialized countries need to reflect the needs and priorities of religious minorities on the one hand, as well as better protect women’s rights on the other. More importantly, by focusing on women from religious minorities, we learn that pursuing

each task independently will not only fail to serve these women, it could also risk undermining these women’s rights. Indeed, sometimes the changes proposed for one agenda (i.e. tackling religious discrimination and accommodating the needs of religious minorities) might actually come at the cost of the other (i.e. women’s rights), as the case of unregulated Sharia courts informs us.

Yet parallel options can be appealing to many Muslim women against the backdrop of extreme disadvantage, discrimination and marginalization that in part results when countries do not adequately address the needs of religious minorities generally or Muslim women in particular. This appeal risks being misleading, however. In reality, parallel options can present a false solution to women from religious minorities, forcing them to trade their rights as women for their rights to religious freedoms. This trade is unfair and should not be asked of Muslim women; they are entitled to have all of their needs and rights met – as Muslims and as women – by governments just as others are.

The fact that religion figures centrally in how some Muslim women would like to live their lives is something the state must address from within a commitment to upholding human rights for all women from religious minorities are equal citizens, and, as such their rights constitute legitimate claims which the majority should be concerning itself with. The challenge of reconciling minority religious beliefs with majority laws that do not stem from those beliefs is a fundamental question for democracies and democracy-building. The solution cannot be a short-cut that tells minorities to manage themselves, regardless of the risks to women’s rights. ■



# Africa

Korir Sing'Oei

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 Koebe 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'

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

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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.*

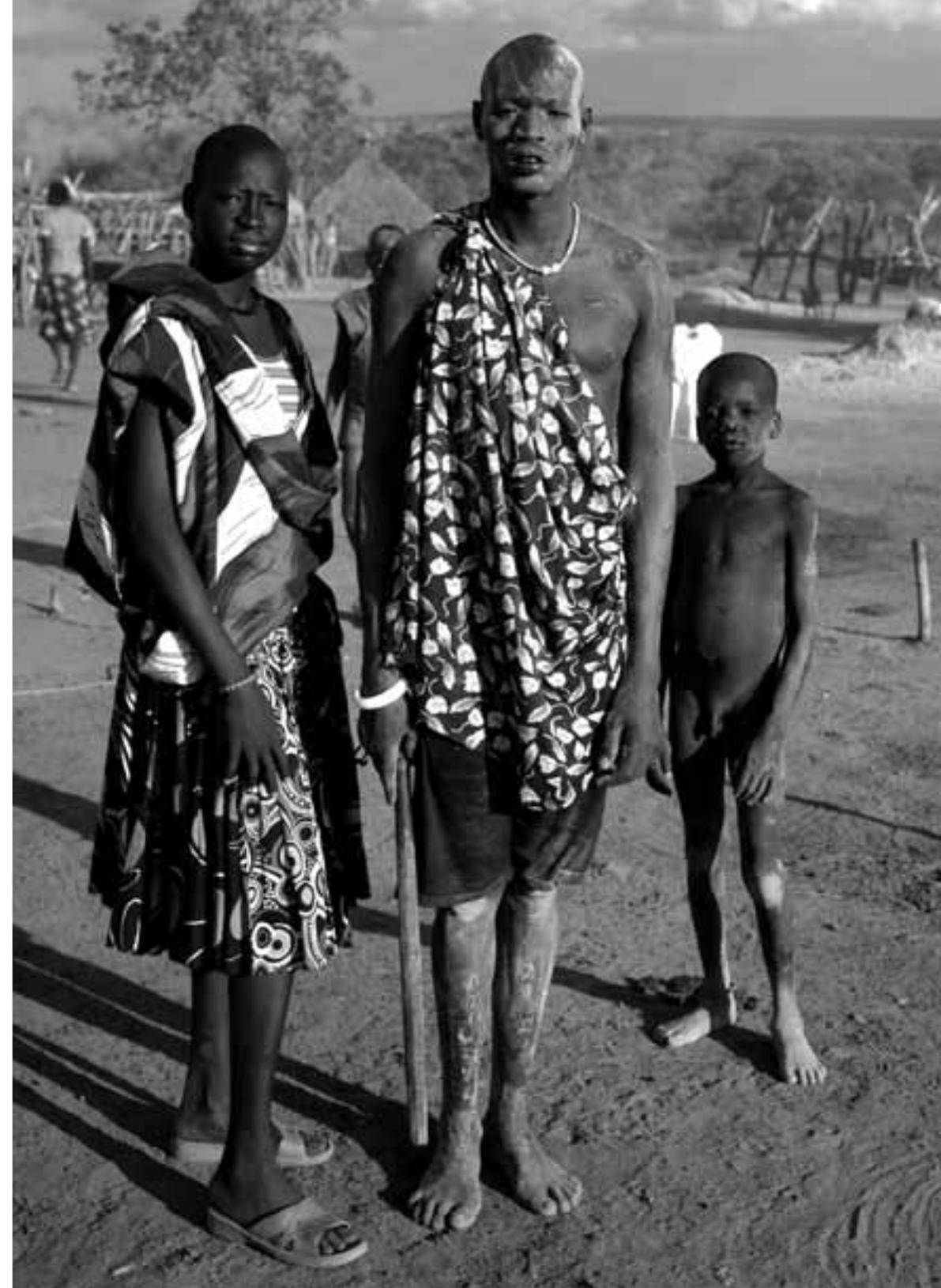
Christians continue to suffer discrimination from government permissions departments concerning the right to build places of worship. Conversion from Islam is a crime punishable by death. Life for converts to Christianity from Islam is made so difficult that they often flee Sudan, USCIRF said.

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



# Americas

Maurice Bryan

The Americas region stretches from the South to the North Pole and includes large populations with varied cultures and ethnicities in North, Central and South America, and the Caribbean Basin. Among the hemisphere's hundreds of millions are numerous indigenous peoples, as well as African descendant populations and descendants of immigrants of European, Middle Eastern and Asian-Pacific origin.

The battle to retain or reclaim ancestral lands and cultures and protect basic rights continued to be the primary focus of most indigenous and African descendant communities during 2009. These populations remained the most socio-economically marginalized in the region and under threat of territorial dispossession. Spokespersons for community councils, especially in areas such as the Pacific coast of Colombia are now increasingly describing their situation in terms of 'population cleansing'.

The efforts of the affected African descendant and indigenous populations to achieve redress by appealing to existing laws and statutes continued to be met mostly by intransigence or indifference by state and private entities. In some instances, such as the indigenous protests against resource extraction in the Peruvian Amazon, this resulted in notably violent confrontations with state authorities.

#### Rights compliance

Official intractability often results from an apparent disregard for, or unwillingness to comply with, legal norms designed to safeguard the rights of vulnerable indigenous or African descendant communities. This is perhaps reflective of broader issues in the region, regarding the upholding of laws, and individual and collective rights in general. The 2009 United Nations Development Programme (UNDP) report on human development in Central America indicated that state authorities, as well as citizens in the region, are increasingly concerned about greater illegality, the militarization of civilian life, and widespread insecurity and violence.

Regional charters and bodies such as the Inter-American Court of Human Rights (IACtHR) have explicitly pointed out the close connection between the promotion and protection of human rights and the ability to guarantee the rule of law. In a growing number of virtually uncontrollable rural and urban areas, unlawful acts such as disappearances, torture, kidnappings for ransom, extra-judicial killings,

human trafficking and threats against ordinary citizens and human rights defenders continued to occur or increased during 2009. This was obvious not only in the conflict areas of rural Colombia but also in Brazil's *favelas*, the rainforests of Peru and Ecuador, and the urban centres, border towns and resource extraction zones of Central American countries such as Guatemala, Honduras and Mexico. Most of these areas are inhabited by significant numbers of indigenous peoples and African descendants.

#### Socio-political change

The societies of the Americas continued to undergo profound political changes during 2009. There was a notable increase in political participation by indigenous peoples and African descendants in countries such as Brazil, Bolivia, Ecuador, Paraguay, Venezuela and the USA, including successful efforts to increase levels of representation at both local and national government levels.

The introduction of new 'pluri-cultural' constitutions in Bolivia and Ecuador, and the coming to power of the first African-American president in US history were among the most obvious examples of regional political shifts. The so-called 'Obama factor' may also have set the tone for a general change in perceptions in the rest of the region, especially with regard to greater participation by minorities and indigenous peoples in public life.

The increasing participation of indigenous peoples and African descendants at the national political level in countries such as Bolivia, Ecuador, Nicaragua and Venezuela also had an international dimension. During 2009, this resulted in the continued expansion and strengthening of regional alliances and regionally oriented institutions, such as ALBA (the Bolivarian Alliance for the People of Our America) and UNASUR (Southern Cone Alliance). Member states of these blocs have all publicly affirmed their commitment to greater inclusion of indigenous and minority populations, and improvements in the lives of the least advantaged in their societies. The ongoing process – particularly among ALBA members – includes an effort by the respective governments to re-found the nation-state through constitutional reforms that allow for more direct citizen input into decision-making at all levels, via referenda as well as local governance initiatives.

Some observers argue that attempts to hasten the process of change, particularly in Honduras, may have contributed to regional destabilization. According to reports from the Inter-American Commission on Human Rights (IACHR), the political turmoil that ensued in that country included notable instances of disregard for key international human rights principles. The overall negative affect of the political turmoil was directly felt by minority communities when widespread international condemnation led to a freeze in the flow of international development assistance to Honduras. These financial sanctions held back efforts that could have helped in advancing national Millennium Development Goals (MDGs), especially in light of the current global economic downturn.

#### Economic change

After having reached historically high levels during the previous decade, money sent to Latin American and Caribbean (LAC) countries by citizens abroad continued to decline significantly in 2009. The World Bank reported that these remittance flows dropped by as much as 12 per cent compared to 2008. The countries most affected by this include El Salvador, Haiti, Honduras, Mexico, Nicaragua and, to a lesser extent, Bolivia and Ecuador. According to World Bank data, remittances accounted for over 10 per cent of GDP in 2007. For Guyana, Haiti and Honduras, remittances accounted for over 20 per cent of GDP. In Mexico, although remittances contribute only 3 per cent to the overall economy, this translates into more than US \$20 billion annually – much of it going to regions with significant indigenous and African descendant populations.

The fall in remittances had a marked direct effect on indigenous and African descendant communities. Regardless of their educational level, members of indigenous and African descendant populations have long found it much easier to obtain decent incomes by working abroad rather than in their home countries. Remitted funds therefore represent a significant portion of the annual household income in these communities, helping many to remain above the poverty line.

#### Human rights and the environment, including climate change

Events in the region in 2009 continued to demonstrate the direct connection between human rights

abuses, environmental degradation and climate change. Indigenous and African descendant lands continued to be usurped without consultation for petroleum extraction, precious metal mining, logging and large-scale agro-industry, such as beef production and oil palm and soybean plantations, mostly for export to wealthy countries. This involves massive deforestation, biodiversity elimination, single-cropping, chemical spraying or leaching of toxic mining chemicals. Regional environmental and indigenous rights activists continued to call for more initiatives that examine the cultures of indigenous and African descendant communities, to see what lessons these may contain for sustainable environmental management and coexistence.

During 2009, the region also continued to be affected by unprecedented heavy rains, landslides, floods and droughts that occurred in countries from Argentina to Mexico, with the impact on the human population made worse by the existing economic disparities and marginalization of African descendant and indigenous communities. Among those most affected have been Guatemalan indigenous peoples, who have been suffering the effects of the worst drought in 30 years. In addition to mining activities, the bulk of Guatemala's land area is devoted to large-scale agro-businesses, involving the production of coffee, sugar and palm oil. With a predominantly indigenous population, Guatemala also has the highest rate of chronic malnutrition in the LAC region, and the fourth highest in the world.

Guatemala experienced in 2009 two consecutive climate-induced low harvests in the country's eight mainly indigenous corn-growing regions. This led to a sharp rise in food prices, which was having an enormous impact by the end of 2009 on the 2.5 million predominantly Mayan indigenous peoples in 21 of the country's provinces. Large numbers of indigenous children in drought-hit subsistence farming areas began to show all the classic signs of extreme malnutrition and starvation.

One possibly related factor is that indigenous peoples and African descendants are granted only limited participation – at best – in decisions affecting the use of their land and the allocation of national resources. This is despite the existence of a range of local regional and international instruments that include International Labour Organization (ILO) Convention No. 169 and

the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) that guarantee indigenous peoples such rights. These norms have already influenced important precedent-setting IACtHR rulings, such as *Awas Tingni v. Nicaragua* and *Saramaka v. Suriname*, which stand as the first legally binding decisions by an international tribunal to uphold the collective land and resource rights of African descendant communities and indigenous peoples. However, the fifth Summit of the Americas, in April 2009, which was attended by heads of all the regional states except Cuba, did little to ensure that the member states' human rights obligations would be met, or that there would be strong efforts to safeguard the rights of African descendant and indigenous populations in the future, according to an analysis by Amnesty International (AI).

### Argentina

The indigenous population in Argentina numbers between 700,000 and 1.5 million. These figures include groups such as the Aymara, Chiriguano, Guaraní/Mbyá, Mapuche, Quechua, Toba and Wichi/Mataco. Despite constitutional recognition of their ethnic and cultural identity, and the existence of laws for advancing bilingual education and communal ownership of ancestral lands, little real progress to safeguard their rights was achieved in 2009. Responsibility for the implementation of these principles rests with Argentina's 23 provincial governments, but only 11 provinces have constitutions recognizing indigenous rights.

During 2009, Argentina's indigenous peoples continued to have little say in the use of their lands or the management of their natural resources. As a result, protests continued in many provinces over attempts to dispossess or evict indigenous communities from their ancestral lands to make way for tourism or large-scale petroleum, mining and agro-industry projects. Indigenous organizations such as 11 de Octubre Mapuche-Tehuelche Organization continued in 2009 to claim that their constitutionally guaranteed rights to land ownership and their title deeds were not being respected, and that the sale of land with people living on it was still occurring.

### Mapuche claims

An estimated 200,000 Mapuche (People of the Land) live in Patagonia, which encompasses the

## Special report

# Doctrines of discovery and canons of recovery: religious intolerance towards indigenous American earth-based belief systems

Even though the everyday realities in the societies of the Americas play out as essentially secular economic, political and social dramas, there are significant religious influences that underpin and drive the plots and dialogues. The fact that various acts of these dramas have had a notably adverse impact on the well-being of the region's indigenous and African descendant populations may be an indication that what is in play is not only rights issues related to disparity and exclusion, but also a virtually irreconcilable clash of belief systems.

### Inclusive political environments

Over the past eight years, Latin America has witnessed the coming to power of a number of so-called 'populist' governments, especially in countries with large politically mobilized indigenous populations such as Bolivia and Ecuador. Besides expressing doubts over globalized free trade, these



governments are aiming to introduce constitutional reform that would be more reflective of indigenous cultures, beliefs and land-holding traditions. The respective governments have also publicly expressed interest in developing more reciprocal regional inter-relationships. In MDG-linked sectors such as health, education, economy and transport, governments are hoping that work on a regional level can be improved through linkages with organizations such as ALBA.

The willingness of indigenous and African descendant populations to support these governments is probably based on the fact that many of the practical aspects of traditional indigenous communal value

**Above:** Afro-Colombian boys at the entrance to the remote village of Pie de Pato in the Choco region of northern Colombia. *Moises Saman/Panos.*

systems still operate among large swathes of indigenous descended peasant populations stretching from Nicaragua, Panama and Colombia, through Peru and Paraguay, to Bolivia, Ecuador and Argentina. Many of these practices are rooted in the traditional indigenous worldview and cosmology in which humans, the environment and the entire cosmos are enmeshed in a network of reciprocal relationships that also includes a spiritual dimension.

**Doctrines of discovery**

Throughout the approximately 500-year history of state formation in the Americas, religious thinking has been a key factor in the region's evolution. From the outset, European colonial expansion into the Americas was a religious project, sanctioned and directed by the highest level of the Church hierarchy in the form of hemispheric doctrines such as the 1493 Papal Bull *Inter Caetera* of Pope Alexander VI and the Doctrine of Discovery. In addition, religious fundamentalists such as Puritan Protestants were among the first settlers in the continental United States and the eastern Caribbean.

According to the fifteenth-century Doctrine of Discovery, any Christian European country that 'discovered' lands populated by non-Christians could conquer and claim the territories, eliminate the populations and expropriate their possessions and resources. Some would argue that it provided a clear licence for the enslavement, territorial dispossession, cultural disintegration and ethnocide of millions of indigenous American and African people in the Americas.

Religious doctrines, and agents of the Church, played a key role in 'native civilizing projects', as well as in policy and state development. Well into the twentieth century in LAC countries, the provision of many social services – especially education – was almost exclusively left up to religious institutions.

It is for this reason that both the Prime Minister of Canada and later Pope Benedict XVI in 2009 were led to apologize for the abusive treatment of indigenous students in Canadian boarding schools. Financed by the government, these were run by religious organizations that removed indigenous children from their families and intentionally stripped them of their language, traditions and culture.

Moreover, religiously inspired principles and belief systems still operate at the most prominent levels of regional society due to the dominant role of religious institutions in elite leadership development and in guiding secular policy discourses, including with regard to concepts such as 'ethics' and 'civilization'.

**Intolerance**

Of singular importance to adherents of the 'religion of conquest' were notions of the absolute rightness and superiority of the faith's worldview and values. They could cite as evidence the conquest itself, as well as the supposed social, economic and material accomplishments of the colonial order.

Consequently among the main characteristics of New World colonial expansion was a highly intolerant approach to traditional indigenous and African belief systems. These were not respected and religious conversion of indigenous peoples and African descendants specifically aimed at the total eradication of their traditional belief structures, even if that also meant physically eliminating the peoples and their cultures.

In 2009, indigenous activists in countries such as Bolivia and the United States have therefore continued to argue that it is the workings of these doctrines and belief systems in the contemporary secular context that still constrain the goals and aspirations of indigenous peoples and African descendants and their efforts to control their natural resources, and to preserve traditional cultures, lands and lives.

As evidence, they can point to the 1823 US Supreme Court ruling that used the Doctrine of Discovery as the basis for its decision that Native Americans have only a right of occupancy to their lands and not legal ownership, which became the foundation for US Federal Indian law. In July 2009, this and other realities prompted the UN Permanent Forum on Indigenous Issues to call for a study of the Doctrine of Discovery and its effects on indigenous peoples. It is due to be completed by the start of the 2010 session.

**Differences in perception**

One likely finding of any study is that central to the debate are marked differences in key perceptions. The incoming religious systems brought to the New World a set of theological assumptions, especially regarding the relationship of humans to nature and the universe, derived from texts that were held to be sacred. For example, in the Old Testament Book of Genesis, humans are portrayed as being made in the likeness of their creators and encouraged to have dominion over

the earth and all it contains. These beliefs were in stark contrast to those of most pre-Christian traditional indigenous societies – especially in the New World – and this could be regarded as lying at the root of the aforementioned irreconcilability of belief systems.

**Continuity**

Many traditional indigenous American religions are mainly earth-based, and generally encourage humans to be socially and environmentally reciprocal. To varying degrees, this view continues to inform the thinking of many rural subsistence indigenous peoples and African descendant communities in the Americas, especially those that still mainly depend on the forests, rivers, and small-scale agriculture and fishing for their livelihoods and that have had limited contact with formal educational systems. For practical survival reasons, they remain acutely aware of their need to function as guardians rather than as subjugators of the land, which is still usually held in common. Their activities are aimed at providing enough for their daily needs, with little non-seasonal surplus or material accumulation. This self-sufficient vision has never accorded with either colonial or postcolonial mainstream thought in the Americas, which may have helped to contribute to the communities' present-day vulnerability. Traditional indigenous belief systems resonate even less with twenty-first-century neoliberal economic models, which promote very large-scale globalized agro-businesses, manufacturing and trade, and large privately held land holdings.

Nevertheless, from Alaska to Argentina, in 2009 the indigenous idea of communally held land as opposed to privately owned property continued to be an integral part of community identity and a vital overall belief system. Activists argued that indigenous land claims could be justified from the perspective of safeguarding of indigenous peoples' religious rights. Moreover, African descendants who entered the Americas also had collectivist traditions of their own preferred to acquire and hold property communally whenever they could in the post-emancipation era.

**Exclusion**

Such views of land ownership were not legally rec-

ognized during nineteenth-century state formation and the establishment of private property laws in the Americas. Moreover, the indigenous and African descendant populations were completely excluded from any involvement in the formulation of policies by the newly independent republics.

Instead, all across the Americas it was deemed necessary to attract additional immigrants from the colonizing cultures of Europe and elsewhere, who shared the same religious views and would maintain and expand the dominant value system. The migrants were enticed with offers of large land holdings, thereby sowing the seeds for current land claim conflicts in countries such as Argentina, Chile and Paraguay during 2009.

In countries such as Guatemala, Peru and Mexico as well, the authorities continued during 2009 to come down heavily on indigenous communities that challenged the ongoing illegal expropriation of their land and resources by national governments for multinational corporate use. Activists across the region have come to regard most government officials as agents who not only act on behalf of dominant foreign interests and wealthier countries, but also identify more closely with these exploitative principles rather than with indigenous and African descendant community interests. They point to state policies that invariably perpetuate expansionist doctrines of dominance, such as the alienation of communal land and natural resources, and the subjugation and exploitation of local labour, with many of the main victims belonging to indigenous and African descendant communities.

At the December 2009 Parliament of the World's Religions, indigenous peoples' representatives claimed that it is such contemporary practices that demonstrate a direct historical connection to the doctrines of conquest, prompting them to call collectively on religious leaders, such as Pope Benedict XVI, to repudiate the Doctrine of Discovery. In July 2009, the Protestant Episcopal Church of the USA passed a landmark resolution, repudiating the Doctrine of Discovery and urging the US government to endorse the UN Declaration on the Rights of Indigenous Peoples. ■

provinces of Río Negro, Neuquén, Chubut and Santa Cruz. According to Equipo Nacional de Pastoral Aborigen, 94 per cent of this group still have no title to the lands they have occupied ancestrally. As a result, land is frequently sold to the highest bidder, leading to land ownership disputes, such as those that continued during 2009.

During June 2009, hearings continued in the ongoing civil trial to determine possession of the Santa Rosa estate in the southern Patagonian province of Chubut. The case goes back to October 2002, when the Curiñanco-Nahuelquirs, an indigenous Mapuche family, were forcibly evicted by the Benetton Group SpA from a 535-hectare stretch of land in Chubut. The family claimed to have received verbal permission from a government land settlement agency to use what was supposedly unoccupied indigenous territory. Benetton claims ownership of over 2.2 million acres of land – including the disputed territory in Patagonia – through the Compañía de Tierras de Sud Argentino (CTSA). This makes Benetton the largest landowner in Argentina. The case went to court after the family refused a Benetton offer to settle in another area, and the litigation has continued to attract attention. This is because of the global recognition of the Benetton brand-name, and because the case highlights the challenges of reconciling traditional indigenous concepts of land ownership and use with private property laws that are constitutionally enshrined in all the countries of the region.

#### Resource extraction

Resource use in Mapuche communities is another of the group's concerns, and protests continued during 2009. Hearings occurred in Salta Province following a December 2008 ruling in a lawsuit brought by 18 indigenous communities in which the Argentine Supreme Court ordered a suspension of plans to harvest approximately 2 million acres of forest. There were also year-end protests in Salta by Mapuche who claim that 12,000 hectares of their communal lands were re-designated as a nature reserve by state governmental decree, and also that Mapuche lands were being ceded to private entities for the establishment of a private country club.

In September 2009, a Mapuche confrontation with a US-based petroleum company on Lonko Purran territory in the Neuquen district of Argentina ended peacefully when the company

temporarily retreated. The corporation, which was granted an oil concession by the government, backs its claim to the area with the support of a former Argentinean Supreme Court justice who professes to have acquired the land at a public auction. The Mapuche Confederation of Neuquen released a formal statement immediately after the encounter, denouncing the petroleum company, as well as the former justice and the provincial governor, for suppressing, ignoring and violating Mapuche rights over the past two years.

The Mapuche Confederation of Neuquen have compared the latest incident to previous confrontations with petroleum companies in the area, such as that of 2001 when Mapuche protests led investors to seek a legal resolution. In that case, the court ruled that Mapuche had a right to demonstrate on their own territory, based on ILO Convention No. 169, and dismissed all charges against them. While this was seen as a great victory for Mapuche, the events of 2009 indicate that the judgment seems to have had little lasting impact.

#### Steps towards Afro-Argentinean inclusion

In a national environment where minorities such as Chinese, Koreans, Roma and immigrants from Latin America do not receive equal treatment, Afro-Argentines in particular continued to experience discrimination in employment, education and housing. According to US State Department reports, they continued to endure racial affronts while using public transportation and to be denied entry to commercial establishments. However, MRG partner organization Afro-Indio reported in December 2009 that, in an unprecedented public gesture towards inclusion, the Municipal Council of the City of Santa Fe, the capital of the Province of Santa Fe, voted to rename a public walkway close to the Ethnographic and Historical Museums that was previously known as 'The Path of Two Cultures'. The intention was to acknowledge the African element in Argentinean society by officially changing the name of the walkway to 'The Path of Three Cultures'. It also authorized the building of two emblematic monoliths representing indigenous and African cultures, to be placed in a sufficiently visible location so that they properly represent the encounter of the three cultures and serve as a public reference point.

In a society where little recognition has histori-

cally been afforded to Afro-Argentines, Afro-descendant rights groups such as Afro-Indio indicated that they regard this as a modest but significant move in the right direction.

#### Bolivia

According to the 2001 Census, approximately 62 per cent of Bolivia's population self-identifies as indigenous (mainly Quechua or Aymara). President Evo Morales – who is of indigenous background – won his December 2009 re-election bid with over 63 per cent of the popular vote. His nearest rival, a right-wing ex-military official gained just 28 per cent.

Since taking office in 2005, the Morales government has experienced strong opposition in its efforts to re-found the state in order for it to be more responsive to indigenous community needs. Violence has flared up several times, much of it fomented by the non-indigenous landowning minority in the wealthy departments of Beni, Pando, Santa Cruz and Tarija. They have continued to oppose the Morales government and had earlier called for departmental autonomy. However, even though right-wing opposition candidates won the Santa Cruz stronghold with 53 per cent of the vote, Morales still garnered 40 per cent in that region. As reported in MRC's *State of the World's Minorities* in 2008 and 2009, Santa Cruz had seen some of the worst anti-Morales violence, when gangs allegedly recruited by the large landowners engaged in systematic attacks against local indigenous groups. Morales was also able to win a majority in two other eastern regions that had previously gone to the opposition.

Morales is arguably the hemisphere's only indigenous president. Together with his allied MAS Party (Movement Towards Socialism), he enjoys considerable support from the historically marginalized indigenous and Afro-Bolivian populations. The MAS now controls both the Senate and Lower House of the newly formed Pluri-National Legislative Assembly (the Congress Plurinacional or parliament, formerly the national congress). This will make it easier to institute long-desired changes, especially for Bolivia's indigenous communities. The IACHR reports that 70 per cent of the country's more than 4 million indigenous population continues to live in poverty or extreme poverty, with little access to education and mini-

mal access to basic services.

The election was a victory not only for the presidential candidate but also for his allies and supporters. One of these is Afro-Bolivian candidate Jorge Medina of the community of Chijchipa in the Department of La Paz, who became the first person of African ancestry in the history of Bolivia to be able to participate as a fully fledged member of the Bolivian parliament, winning more than 90 per cent of the vote in his district in the December 2009 elections. Medina ran for the position of Representative for Original Indigenous and Afro-Bolivian People in the Department of La Paz, under the banner of MAS – IPSP (Instrumento Político por la Soberanía de los Pueblos). The majority of the estimated 35,000 Afro-Bolivians live in the Yungas region of La Paz Department and have historically remained at the low end of the socio-economic scale. Like the indigenous population, they continue to face widespread discrimination and other serious challenges in the areas of health, education, literacy, income and employment. Afro-Bolivians regard the fact that a person of African origin is finally able to participate as a full member of the Bolivian parliament as confirmation of the process being undertaken by African descendants and indigenous communities to create a new social order, namely a 'pluri-cultural' Bolivia. The result also serves to reinforce a growing notion among African descendants across Latin America that they are much more likely to find an inclusive environment for public participation in countries that have elected so-called 'indigenous-friendly' governments. So far these administrations have demonstrated a greater responsiveness to their needs and aspirations compared to others, and have taken practical affirmative steps, such as appointing African descendants to high-level official positions, both locally and as foreign representatives.

#### Brazil

During 2009, Brazil enhanced its position as an emerging global economic contender. The so-called 'country of the future' also received a huge international image boost on being selected to host the 2016 Olympics. Nevertheless, social investment initiatives seem to have had only a limited effect on the country's historically marginalized African descendant communities and indigenous peoples. Brazil ranks only 75th on the UN's Human Development



**Left:** Pankararu girls wait for the beginning of the Tore ceremony at Favela Panorama, Sao Paolo, Brazil. *Eduardo Martino/Panos.*

In July 2009, the publication *O Globo* reported that the country's Supreme Court denied an appeal by Brazil's Democratic Party aiming to overturn affirmative action at the University of Brazil. The petition argued that the quotas violate the 'constitutional right of human dignity' and the universal right to education. While the Court ruling defended the constitutionality of racial quotas, it emphasized the need to increase the focus on socio-economic remedies rather than on racially based quotas.

#### Indigenous peoples' land rights issues

The National Indigenous Foundation (FUNAI) estimates that there are 460,000 indigenous people living on indigenous lands and an additional 100,000 to 190,000 in other areas, including urban areas. Some rainforest indigenous settlements contain groups that still live in voluntary isolation. More than half of Brazil's indigenous people continue to live in poverty, with poor health conditions, in communities where traditional ways of life and culture are under ongoing threat from logging, land developers, agricultural expansion and resource extraction.

While the 1988 Constitution obliged the federal government to demarcate all indigenous areas by the year 1993, at the end of 2009, the final phase – which is actual legal registration – continued to be the most difficult. Among the primary reasons are high-level corruption and deep-seated prejudices and discrimination against indigenous people and African descendants by local-level functionaries.

During 2009, human rights monitors reported that confrontations continued to occur over land ownership or resource exploitation rights. National authorities are often unable to provide the required protection due to limited state presence in remote areas. On the other hand, in several states where there is a police presence in indigenous areas, AI and local human rights monitors reported the continued existence of organized death squads linked to security forces that targeted persons on behalf of landowners. Given the support perpetrators enjoy, including from governors and state and municipal legislators, these abuses continued to occur with impunity.

#### Raposa Serra do Sol Reserve

Following the December 2008 Supreme Court decision to uphold President Lula da Silva's creation of the Raposa Serra do Sol Reserve in the northern Brazilian state of Roraima – near the Venezuela/Guyana border – the last of the few remaining non-indigenous rice-farming settlers who moved into the territory two decades ago have finally left.

The reserve, over 4 million acres and encompassing about 42 per cent of Roraima State, is now one of the largest protected indigenous areas in the world. For more than a decade, it has been the scene of violent frontier conflicts between indigenous peoples and non-indigenous Brazilian farmers, with settlers intimidating protesters and sometimes mounting armed resistance to hamper police eviction operations.

#### Urban favela pacification

In 2009, state governments in major cities such as Rio de Janeiro and São Paulo continued their efforts to pacify the large number of poor, marginalized urban shanty towns (*favelas*), which contain majority African descendant populations. First founded by squatters seeking work in the big city, the *favelas* have existed for decades and continue to expand. In Rio de Janeiro, over 2 million people, or 30 per cent of the city's population, live in the almost 800 *favelas* built on the hills that overlook Rio.

For most of their existence, shanty-town residents have lived on the margins of urban society without social investment or police protection, and in the vacuum, powerful organized gangs have emerged. According to local media, these sometimes administer 'communitarian justice', including enforcing sentences for transgressors. Vigilante groups are common, especially against those who go unpunished by the formal legal system after being accused of crimes.

Recently, the state government has begun taking steps to pacify *favelas*; these have mainly involved frequent heavily armed police raids which activists and residents complain have resulted in a number of human rights violations, including summary executions, deaths and injuries to many civilians and bystanders.

#### Favela occupation

In 2009, the authorities began a much more comprehensive strategy of *favela* pacification. After more

Index and displays the greatest measure of inequality in all of Latin America: the wealthiest 10 per cent averaging a monthly household income of 5,600 reais (US \$1,982) while the poorest 50 per cent get by on about 272 reais (US \$96) per month.

There are approximately 90 million Afro-Brazilians, constituting nearly half of the very mixed national population; however, they continue to represent a large percentage of the poor and a small percentage of the professional and managerial middle and upper classes. Moreover, a sizeable racial education gap continues to be a major constraint to any rapid change. This is partly linked to the fact that the rich can pay for private education and pre-college tutoring, while the poor attend inadequate, overcrowded and under-financed public schools.

Although the law prohibits racial discrimination, caste and colour continued to affect access to opportunity during 2009, especially for Afro-Brazilians and indigenous peoples. Brazilians with dark skin tones, such as African descendants, continued to encounter social and economic discrimination, including higher rates of unemployment and wages

averaging approximately half those earned by Brazilians of European descent.

#### Affirmative action

In recent years, the Brazilian government has initiated affirmative action measures to correct these inequalities, and there are programmes in place at nearly 20 government-run universities. In 2009, however, significant debate continued on the effectiveness of this policy.

Affirmative action bills to decide whether the government should impose racial quotas have been approved by the Brazilian House of Representatives, but at year-end these remained stalled in the Senate. The bills seek to create racial and socio-economic quotas in all federal universities, and propose reserving 50 per cent of all places for students from public high schools. Of those reserved spots, up to half would be set aside for Afro-Brazilians and indigenous students. The other half would be allocated to low-income students, of whom indigenous people and African descendants constitute a significant portion.

than a decade of just guarding the entrances and conducting sporadic raids, a permanent 24-hour policing presence is being instituted as part of a new policy of urban integration. According to state authorities, the aim is to establish fixed Peacemaker Police Units (PPU) in designated *favelas*, after first eliminating the large organized gangs. These operations can involve units of up to 300 military policemen, mainly from the elite Special Operation Battalion (BOPE). The BOPE units are judged by experts to be one of the most violent military forces in Latin America. They utilize equipment considered to be more powerful than that traditionally used in civilian law enforcement, including a fleet of armoured vehicles, known as 'Pacificador' (Peacemaker) or 'Caveirão' (Big Skull), equipped with point 30 carbines, M16 assault rifles, C-4 explosives and fragmentation grenades. Taking over a community usually means having to do battle heavy resistance from organized groups of up to 200 people, and the casualty rate can be high. Gangs are increasingly well-armed with assault weapons that give them new power to resist. According to findings by Brazilian NGO Viva Rio, organized gangs in Brazil now have about 4 million illegal weapons, made easier to obtain by deeply entrenched corruption in official circles.

In October 2009, just days after Brazil's selection to host the 2016 Olympic games, *favela* gangs shot down a police helicopter during a BOPE raid just 1 mile from Maracana stadium, where the opening and closing ceremonies of the Olympics are scheduled to be held. According to Brazzilmag.com, by the end of 2009 the pacification units had completed the establishment of PPU stations in seven *favelas*. The aim is to offer so-called 'community security' to a third of Rio's *favela* residents by the end of 2010.

Probably of much greater importance to residents is that PPU stabilization includes providing long-needed basic services as part of a Growth Acceleration Programme (PAC). This means installing basic water and sanitation infrastructure, thoroughfares, street lighting, health and education services, internet communication and housing upgrades. All of these services have been lacking previously.

#### 'Eco-walls' or social barriers

Talk of greater social integration of the 800 unpainted concrete and brick *favelas* began to be

viewed with increasing scepticism in early 2009, following city plans to begin building 3 meter high containment walls around at least 11 of Rio de Janeiro's informal settlements. State authorities indicated that the city's *favelas* have been doubling in size and threaten the forest at the edge of the city. Critics claim that the walls are more a social containment plan rather than an ecological conservation effort, the aim being to establish a barrier between the *favelas* and the beachside condominiums of the wealthy. The authorities cited the need to protect what is left of a huge bio-diverse Atlantic rainforest that once covered 16 eastern Brazilian states but is now down to just 7 per cent of its original size.

Environmentalists, human rights activists and residents continued to argue that the so-called 'eco-walls' are essentially an attempt to hide the *favelas*, which can be seen from Rio's beaches. They claim the barriers would physically segregate *favela* residents from the rest of society, and that other conservation measures can be applied. For example, in one *favela*, government and community representatives have agreed to build nature paths, adult recreation areas and playgrounds alternating with low 90 cm walls to prevent expansion. In addition, a jurist for the UN Committee on Economic, Social and Cultural Rights defined the walls as 'geographic discrimination', especially since other types of occupation, such as luxury condominiums, homes and hotels, also affect the native forest cover on Rio's outskirts.

During 2009, the first *favela* to be fully pacified, socially enhanced, as well as walled off, was Dona Marta, home to an estimated 7,500 people. This now 'model' *favela* earned international fame in 1996 as the production location for the Michael Jackson music video, 'They Don't Really Care About Us'.

## Colombia

Despite official pronouncements touting improved national security, the 44-year-long internal armed conflict in Colombia continues to simmer and is now taking an increasingly heavy toll on African descendant and indigenous communities. Apart from the continuous loss of lives and livelihoods, the greatest threat during 2009 was the ongoing apparent systematic dispossession of communities from large areas of land on which they have lived for scores of years and on which they depend for their

subsistence, thereby guaranteeing significant food self-sufficiency. The Colombian NGO CODHES estimates that nearly 4.3 million people have been internally displaced in Colombia over the past two decades, between 200,000 and 300,000 per year. Displaced rural people have few skills beyond farming and few social support structures in the areas to which they are forced to flee.

As the number of internally displaced people (IDPs) grows, humanitarian assistance is becoming ever more costly and difficult to provide. Processing of claims can sometimes take weeks or months and assistance is only temporary, at best. The most IDPs can expect is transitory shelter for two to six months and, regardless of family size, a stipend of about US \$500 to help them get re-established wherever they find themselves.

With a government allocation of just US \$508 million for IDP relief, during 2009 many IDPs continued to live in unhygienic, desperate and uncertain conditions, with limited access to health care, education, employment or income opportunities. Many IDPs are forced to turn to begging or prostitution, and become particularly vulnerable to trafficking schemes for sexual exploitation or other organized illegal activities. While assistance is provided through government bodies such as Acción Social, the Colombian Family Welfare Institute and the Ministry of Social Protection, international humanitarian support from groups such as the International Organization for Migration, the International Committee of the Red Cross, the UN High Commissioner for Refugees (UNHCR) and the Colombian Red Cross continue to play a major role.

#### Population removals

Afro-Colombian human rights groups indicate that of the more than 4 million IDPs in Colombia, over 30 per cent (nearly 1.3 million) are Afro-Colombians. Another 15 per cent (600,000) of the IDPs are from indigenous communities, despite the fact that those who self-identify as indigenous in Colombia make up only 2 per cent of the national population (43 million people). Moreover, the country's April 2009 decision to finally support the UNDRIP is not reflected in existing measures to safeguard the rights of Colombia's indigenous communities. Human rights defenders are concerned at the growing number of Colombia's indigenous

communities that now seem threatened with imminent and complete disappearance as a result of violence and dispossession, especially given the close relationship between their lands on the one hand, and identity and culture on the other.

Among the groups particularly affected are Embera, Gaiubos and the Siriri-Catleya indigenous communities, including those near the border with Venezuela. According to UNHCR, in early 2009 more than 2,000 indigenous Embera fled from their territory in the department of Choco, leaving 25 villages abandoned. In August 2009, human rights observers reported the massacre of 12 indigenous people, including 7 children in southern Colombia. There were also increasing reports of systematic sexual violence against indigenous women. There are 27 indigenous groups in Colombia that are considered to be at risk of disappearance. And the Colombian Indigenous Organization (CIO) estimates that one indigenous person is murdered every 72 hours.

Activists describe the events occurring in remote rural Colombia as a gradual but inexorable programme of ethnic cleansing. This is allegedly designed to remove indigenous and Afro-Colombian subsistence peasant farming populations from very fertile terrain, in order to usurp the land to grow illicit crops such as coca leaf and opium poppy, or to establish large-scale agro-business ventures, including palm oil plantations and beef cattle production.

#### New militia groups

In addition to the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), there are growing numbers of illegal paramilitary groups operating in the Pacific region of Colombia, especially in the departments of Antioquia, Arauca, Cauca, Choco, Narino and Putumayo. Historically, these areas have had large African descendant populations that traditionally hold communal titles to large areas of fertile land.

The Organization of American States (OAS) estimates that there are approximately 23 new illegal armed groups operating in the country. In addition to operations such as kidnapping for ransom, extortion and cross-border smuggling, Colombia's outlaw militia groups systematically abuse and threaten indigenous and Afro-Colombian populations, often giving them no more than 24 hours

to vacate their holdings, taking only what they can carry. Consequently, indigenous people and African descendants in the zones of conflict no longer have any faith in the capacity of state security forces to protect them. Many see state operatives as ineffective or as acting in tandem with one or other of the illegal groups. The overwhelming percentage of the personnel in the state forces are conscripts undergoing compulsory military service, who are more interested in ending their terms of duty without being killed than in protecting the civilian population.

One especially disquieting random threat, according to African descendant human rights defenders, is the tendency of security forces to try to produce so-called 'false positives'. There are a number of reports of senior-level military personnel who pay illegal paramilitary groups to forcibly acquire young men, who are turned over to local government brigades which then kill them, dress them up in combat fatigues and present them as guerrillas supposedly killed in successful encounters. Army brigades have also reportedly entered educational institutions and killed young men who were then also dressed up in guerrilla uniforms and presented as dead combatants.

#### **Corruption and impunity**

Of great significance to observers who seek an end to the conflict is that those who stand to benefit the most economically from the ongoing dispossession and lawlessness in the country can be found at the very highest levels of the national society. As reported in *State of the World's Minorities and Indigenous Peoples 2009*, investigations by the Supreme Court and prosecutor-general's office established links between politicians and paramilitary groups, and succeeded in implicating 15 governors, 31 mayors and 70 congressional representatives who continued to serve time in jail during 2009. However, activists point out this has done little to improve the situation. During 2009, displacement and violence with impunity have continued to escalate, indicating that the collusion and corruption are pervasive, and that maintaining the conflict continues to enjoy high-level political and economic support.

According to human rights organizations working in the dense forests of the Pacific coast, paramilitary gangs are continuing to seize Afro-Colombian land to facilitate agro-business conglomerates. The land is then transformed by deforestation and elaborate

infrastructure, such as highways, drainage canals and agro-business plantations. Moreover, government officials have expressed a desire to see a tenfold increase over the coming decade of areas planted with crops such as African Palm and soybeans. This would mean total crop areas of some 7 million acres, if implemented.

#### **Human rights defenders at risk**

The task of bringing the issue to public attention rests largely in the hands of rights defenders. But Afro-Colombian and indigenous human rights defenders continued to be under threat during 2009, both from old militia groups as well as from the increasing number of new armed groups, especially when they openly criticized attacks on the community or voiced concerns about perceived corruption and collusion by official authorities.

During 2009, African descendant and indigenous human rights defenders continued to be subject to harassment by paramilitary groups as well as by the state, with government agents asserting that human rights activists are engaging in activities supporting terrorism and the militia groups just as easily accusing them of working for the government.

During 2009, according to UN observers, harassment of indigenous human rights defenders and Afro-Colombian activists included surveillance and wiretapping, forced entry, destruction of human rights defenders' offices, threats by phone and email to individuals and their families, arbitrary arrests and sometimes detention of human rights defenders with unfounded criminal charges being brought against them.

#### **Conflict and the environment**

The conflict also has an environmental dimension. Those who are able to remain on their lands were faced with another debilitating problem during 2009. This arose from ongoing international attempts to eradicate illicit crops such as coca by aerial spraying. In April 2009, the UN Office of Drugs and Crime reported that Colombia sprayed the herbicide glyphosate over 515 square miles (133,496 hectares) of coca bush cultivation. The chemical also affects regular food crops and livestock in the general vicinity.

In addition to contaminating the food supply, the toxic runoff from the land also kills fish and other aquatic life in the rivers or along the shore, putting

these already vulnerable populations at even greater risk. During 2009, African descendant organizations in the Cauca Valley reported that there is now a higher incidence of eye and skin irritation, which the communities attribute to aerial glyphosate dispersal.

Another threat to young Afro-Colombians and indigenous people continues to be the forced recruitment of young males and females to swell the ranks of the guerrillas or outlaw paramilitary groups. A history of official neglect and almost no social investment in predominantly Afro-Colombian and indigenous areas has helped to constrain income-generation and earning opportunities. According to community development activists in the Cauca Valley, offers of combat-pay incentives by the various armed groups now represent the main available income-earning opportunity in these areas; especially since the conflict also severely constrains other traditional survival activities, such as farming and fishing. This all but ensures that another generation of rural Colombians will be drawn into the country's long-running violent, bloody, and increasingly dehumanizing conflict.

#### **Honduras**

After almost a century of rule by military dictators, Honduras has had seven consecutive democratic electoral transitions since its 1982 constitution change. However, on 28 June 2009, the country experienced the militarily enforced ousting and exile of the sitting President Manuel Zelaya Rosales, with the full knowledge of Congress and the Supreme Court. The ensuing crisis served to delay efforts aimed at bringing about lasting social, economic and political change that could have benefited marginalized African descendant and indigenous populations.

Manuel Zelaya of the centre-left Liberal Party was elected president of Honduras in November 2005. Among his close advisers were human rights activists and lawyers, with roots in the country's small radical left that fought against the dictatorships of the 1970s. Of particular interest to indigenous people and African descendants was that the president had increasingly begun to respond to criticism from grassroots movements, such as the independent National Coordination of Popular Resistance (Bloque Popular-Coordinadora Nacional de Resistencia Popular) and other social activists.

The Popular Resistance, consisting of opposi-

tion politicians and members of various workers and indigenous peoples' organizations, such as the Centro Nacional de Trabajadores del Campo (CNTC), which is involved in land reclamations, had been increasingly voicing concern about the lack of progress in dealing with issues that affect traditionally marginalized groups. They demanded measures and resources to increase opportunities in a country where 40 per cent of the population lives on less than a dollar a day. Among their main concerns were the negative effects of the US-sponsored Central American Free Trade Agreement (CAFTA), the socially and environmentally destructive operations of multinational mining companies, and the efforts of real estate developers to fragment and expropriate the communal beachfront lands of African descendant Garifuna communities. These areas were being redefined as Areas Under Special Management (ABRE) and then opened up to large-scale tourism projects.

In August 2008, amid criticism from the business community, right-wing political groups and many in Congress, Honduras joined the anti-CAFTA Bolivarian Alternative for the Americas (ALBA), citing supposed US apathy toward Honduran poverty. In early 2009, Zelaya pushed through controversial measures such as a 60 per cent rise in the minimum wage. This alienated the powerful business elite who complained that it would increase operating costs as well as restrict employment growth.

Zelaya's relationship with Congress grew decidedly worse after October 2009, when he sought to hold a plebiscite to determine whether there should be constitutional reform. The reforms would have allowed for more direct citizen input into decision-making at all levels, via plebiscites and increased local-level governing initiatives, similar to those being instituted in Ecuador and Bolivia. The proposed reforms were appreciated by many African descendant and indigenous communities, who saw it as a chance to end their own political marginalization. They therefore welcomed signals to that end, such as a televised speech given by Zelaya the day before his ouster, when he reiterated that Honduras 'was in the process of change [and] of transformation'. However, such hopes of change disappeared, when, on the following day, the president was placed on an army aircraft and sent to Costa Rica.

# ‘They say you are not a Christian; you are not religious’

The issue of religious discrimination in the Americas is complex especially given the region’s colonial history. To find out more, Maurice Bryan speaks with Hector Pelico, an artisan of indigenous Mayan descent, who sells his handicrafts outside the Chalchuapa Temple complex in El Salvador.

*‘On a personal basis, I cannot say I have big problems with discrimination. The women in my family have more problems. They wear traditional [Mayan] clothes and people treat you different when you live the indigenous identity, especially in the city. Some restaurants tell them they cannot come in dressed like that. People do not want to respect the indigenous culture. They think it is backward and that all indigenous people are poor and uneducated. So it is not easy.’*

When asked how he overcomes this attitude towards indigenous people, Pelico explains that:

*‘... my grandfather was a traditional priest – some people call it shaman – so he knew a lot of things.’*

## Human rights abuses

The internal political disruption led to serious reported human rights violations, including against African descendant and indigenous protesters. In August 2009, the IACHR conducted an on-site visit to Honduras to observe the human rights situation and confirmed a pattern of disproportionate use of force, arbitrary detentions and the control of information aimed at limiting political participation. The IACHR

*He taught me to understand I have a responsibility to keep our traditions from our ancestors and to teach people about them. So the discrimination I can talk about is the way people behave to those of us who want to keep our vision and traditional knowledge and religion and beliefs.’*

Pelico says that the discrimination against his beliefs is not new and began when the Spanish first arrived.

*‘To begin with the Spanish changed the names our Mayan ancestors had given to all the rivers, the mountains, the valleys, volcanoes, the lakes and springs. These were sacred places and these names had real meaning and power. The ‘conquista’ began to name these places after their own religious saints. So now we have all these places, even volcanoes named after religious saints. They have no connection to us and our Mayan culture or ancestors or our traditional beliefs. But people don’t like it when you say things like that. They say you are not a Christian; you are not religious. This is the discrimination I am talking about.’*

On the significance of changing the names of these geographical locations and the importance of honouring the Earth, Pelico explains:

*‘... the names were connected to our religion, and our religion is connected to the earth. Our spiritual connection is to the earth. We believe in honouring the earth and there is a story connected to nearly every place name. That was our vision and our spirit history. There were special names for the point where a particular river started or where a spring came out of the earth. And we had special ceremonies for these places at various times of the year. The whole community took part. It helped to bind the people and keep them connected to the earth.’*

also recorded that demonstrators were experiencing harassment and having their free speech rights curtailed through the placement of military roadblocks and the arbitrary enforcement of curfews. They also received reports of arbitrary detentions of between 3,500 and 4,000 people by the police and the army during the demonstrations, and of cruel, inhuman and degrading treatment in poor detention conditions afterwards. According to testimony provided to

*‘The earth is our Mother – Madre Tierra. ... We believe disrespect for the earth can invite destruction. Even now those of us who still practise the traditional ways make festivals or make pilgrimage to the volcanoes to show respect. But now most of the people have to keep these beliefs to themselves. They feel they cannot talk about it openly because of prejudice.’*

In addition to religious discrimination, Pelico describes some other issues faced by indigenous people.

*‘Maybe the biggest thing is the way our people now look at the earth. We believe in communal ownership. The earth is not meant to be bought and sold. You cannot buy and sell your mother. Many of our Mayan people now do not have access to land because it is all privately owned by big farms and mining concessions. We have all this mining and deforestation in our countries around here, which is destroying the earth. How much more gold do they need? Look at the drought we are now having here. This shows people are doing bad things to the earth. We are no longer in harmony. Every year we have less and less to leave for our children. So all the technology and development is no good if it destroys the earth. So we should not be surprised if the Earth Mother and Earth Spirits begin to punish us with storms or droughts and earthquakes because of our disrespect. This is the kind of knowledge we lose through discrimination and disrespect for our beliefs.’ ■*

*Edited by Rahnuma Hassan*

the IACHR, those who were detained were subject to beatings, threats at gunpoint and verbal abuse, and in the case of females, sexual abuse. At some police posts, judges who appeared in response to petitions for *habeas corpus* were also mistreated, threatened at gunpoint and verbally abused.

As events unfolded, information was censored by military-enforced news blackouts. Media efforts considered supportive of the opposition

to Zelaya’s ouster were routinely disrupted by state agents as well as by private individuals. This affected the operations of a range of local and international media services, including CNN en Español, Guatevisión (Guatemala), Cubavisión International, Ticavisión (Costa Rica) and especially the Venezuela-based Telesur news network, which is supported by regional governments including Argentina, Cuba, Uruguay and Venezuela. The regime also especially targeted local community broadcasters that cater to indigenous and African descendant audiences.

## Harassment

The IACHR also received testimony about the harassment of prominent public figures who publicly showed support for, and demanded restitution of the deposed president. Among those affected were governors, members of Congress including ministers, mayors, as well as indigenous and African descendant community leaders. State functionaries reported that, in addition to personal threats and acts of violence, they also were subjected to budget cuts and military occupation of the public buildings in which they worked. A number of them fled the country for their own safety. Among these was the respected young Afro-descendant Garifuna physician, Dr Luther Castillo, who learned that the Honduran army had reportedly received orders to arrest him and shoot if he resisted. Castillo had only recently been appointed Director of International Cooperation in the Honduran Foreign Ministry.

## Impact on African descendants

Castillo’s departure had a particularly direct effect on the Afro-Honduran Garifuna community. For the past decade, he had been serving as director of the Luaga Hatuadi Waduheñu Foundation (‘For the Health of our People’ in Garifuna) and with community support had established in 2007 the first-ever Garifuna Rural Hospital and outreach centre. The facility is supported by a number of international aid organizations and medical schools, such as those connected to the US Johns Hopkins University and the University of California (San Francisco), and serves some 20,000 people in the surrounding communities. It is considered vital to these communities as studies have determined that the Honduran population has among the worst

# ‘... Right now we need real action. Not just pretty words’

**In November 2009, Alan Garcia, the president of Peru, apologized to the country’s African descendants for the centuries of ‘abuse, exclusion and discrimination’ that Afro-Peruvians have suffered, beginning with enslavement by Spanish colonizers. Maurice Bryan speaks to a young Afro-Peruvian university student and community activist, Cecilia Carpio, about her reaction to the apology and her views on discrimination in Peru.**

*‘Although I suppose in one way you can look at the apology as a positive thing ... in reality it is nothing more than another nice-sounding speech. Every single day the Peruvian state itself shows the opposite. What we have in Peru is a big racial and class divide. Apologies alone are not going to change that. Good intentions alone will not change it. What we need are real programmes.*

*‘What we have is a kind of a caste system. We have a small number of Spanish and other European descendants who control most things: the economy, the politics, the culture and the religious groups. And some of them – not all mind you, but a very influential group of them – promote white supremacy and strong racism in the country in public education, religion, in*

*the mass media ... everywhere ... at all levels. And that is a problem because 80 per cent of the Peruvian population is Indigenous or mestizo [Euro-Indigenous mixture]. Then another 10 per cent have African ancestry so that is 90 per cent overall that is non-white. But the interests of this 90 per cent are mostly ignored. That kind of inequality is what creates problems.’*

When asked to expand on how racism manifests itself in the media, Carpio gives the example of a TV commercial for a major Peruvian newspaper that she found particularly offensive:

*‘[They had] a TV commercial for the food and nutrition section of El Comercio newspaper. The advertising showed what is supposed to be an African family but they showed them as ... what? Cannibals!! There is this mother who is telling this cannibal son not to eat fat white people because they are full of cholesterol. Then she says instead the son should learn from his brother because he eats healthy. They showed the brother cooking a thin white person. Then the text said – “Eat healthy and be healthy, El Comercio brings you tasty and healthy food with delicious recipes and advice from experts in cooking and nutrition... every Tuesday and Thursday.”*

*‘The government may apologize all they want, but as long as they keep on allowing such racist communication there will never be any progress in stopping racial discrimination. If they were truly serious then the congress should pass legislation to stop such racism and then really enforce the law. Then the court would have to punish offenders like El Comercio and others who try to show African descendant people and indigenous people in such insulting ways. Another paper like that is El Correro. Early this year it said that indigenous Peruvians in the*

*Amazon are head shrinkers and cannibals and should be bombed with napalm.’*

In addition to anti-discrimination legislation, Carpio feels that businesses and schools should receive training on prejudice and discrimination, explaining that, ‘they need to understand the harm their ignorance is causing to other people and the country: especially in the economic area. There is a lot of discrimination in employment and without money you cannot really get ahead.’ She also thinks that, ‘Schools need special programs, also the businesses in Peru need special programmes.’

Carpio uses the example of newspapers to describe the kind of programmes that she thinks are needed. She suggests that the staff at newspapers need anti-racist training to change the way they perceive Afro-Peruvians. Newspapers should also stop publishing offensive material and should instead publish educational information on the valuable contributions of Afro-Peruvians in building up Peru.

Although she agrees with those who say that it will be difficult to change attitudes on race, she insists that:

*‘... it is no use saying [the situation for minorities] has always been that way. The fact that people made mistakes in the past does not mean that we have to keep on making them. Maybe that is what the famous apology you mentioned is supposed to mean, but right now we need real action. Not just pretty words.’ ■*

*Edited by Rahnuma Hassan*

Paraguayans of identifiable indigenous ancestry prefer not to be officially classified as such. Indeed, 90 per cent of the country’s population speaks Guarani, the indigenous *lingua franca*. This reluctance reflects perhaps the ongoing social and economic marginalization, and the long record of systematic abuses to which Paraguay’s indigenous peoples have been subjected. These have included enslavement, extra-judicial executions, sexual violence and also child-trafficking.

According to the US State Department, Paraguay ranks as the second poorest country in South America, with just 10 per cent of the population controlling 66 per cent of the land and 30 per cent of rural people being landless. In 2009, state neglect and ongoing tensions between notions of traditional communal land ownership and private property interests continued to affect the lives of the country’s various indigenous cultures.

## Human rights violations affecting indigenous communities

Although the political climate has changed significantly since the era of dictatorships, human rights violations against indigenous people are still prevalent. The IACHR found that some two decades since the end of military dictatorship, indigenous communities continue to face considerable obstacles, affecting their access to land and ability to express their cultures. In 2009, the levels of poverty and illiteracy of Paraguayan indigenous people continue to be significantly higher than among the rest of the population, and in some cases 20-year-old land claims cases are yet to be settled.

While the Paraguayan Constitution recognizes the right of indigenous peoples to hold communal property and requires the state to provide these lands to them free of charge, this is no stipulation for compliance. The 2002 Census of indigenous people calculated that 45 per cent of Paraguay’s indigenous people did not enjoy definitive legal ownership of their land.

## Yakye Axa and Sawhoyamaxa

According to an AI report, during 2009 the Yakye Axa and Sawhoyamaxa, who belong to the Enxet indigenous people, continued to live in decade-old temporary homes alongside the Pozo Colorado-Concepción Highway, having been deprived of their traditional communal lands nearly two decades ago, when these

access to health services in the region, with a nationwide average of 8.7 doctors and 3.2 nurses per 10,000 people.

Concerns over the legitimacy of the new regime also caused international financial institutions, such as multilateral banks, and aid agencies to freeze the transfer of funds to Honduras. These sanctions led to an immediate downsizing or halting of a number of much-needed social and economic development

projects, many of them in marginalized areas where African descendant and indigenous people make up the majority of the population.

In November 2009, the country held its scheduled elections. The presidency was won by the centre-right National Party candidate Porfirio ‘Pepe’ Lobo, a rancher and farmer who served as president of Congress from 2002 to 2006. Also at the end of 2009, the military leaders involved in the presiden-

tial ouster were themselves arrested. However, they are likely to be pardoned by the new administration before ever having to face trial.

## Paraguay

According to government estimates, there are around 108,600 people in Paraguay who identify themselves as indigenous. This is thought to be an under-estimate, given the fact that many

were taken over by private owners. After 10 years of litigation, around 90 families of the dispossessed Yakye Axa (Island of Palms) indigenous community are still forced to live on a narrow strip of land between the Pozo Colorado-Concepción highway and the wire fence that marks the edge of the large cattle ranch that absorbed their ancestral land. Similarly, up to 500 Sawhoyamax (meaning 'From the place where the coconuts have run out') have also been existing on the edge of the highway, because their lands in the heavily forested area on the eastern edge of the Chaco region are also now in the hands of private owners, who have already deforested large areas for beef production.

When their lands were seized in the 1970s, members of these indigenous communities remained as workers on the same private estates that had expropriated their ancestral territories. They suffered years of exploitation and mistreatment before being evicted in the early 1990s, when they started litigation against the estates aimed at reclaiming a limited portion of their original holdings. Since then, they have been living on the highway.

After much legal wrangling in 2005 and 2006, the IACtHR found that the rights of the Yakye Axa and Sawhoyamaxa to judicial protection, to property and to life had been violated. Among other measures, the IACtHR ordered the return of the traditional lands. They gave Paraguayan authorities three years to implement this. The Court required the authorities to provide resources to purchase the land from the current owners and to help the Yakye Axa and Sawhoyamaxa re-establish themselves there. However, at the end of 2009, the settlers are still in place and no measures to enforce the ruling have been taken.

After nearly a generation as squatters, AI reported that many traditional practices have almost vanished and community cohesion and food sovereignty through hunting and fishing are also no longer possible due to lack of access to ancestral lands and deforestation. Employment opportunities are also limited, which means that the communities now increasingly depend on food handouts from state agencies and private institutions.

### New hopes

The August 2008 swearing-in of President Fernando Lugo, a former Catholic bishop, initially offered some hope to Paraguay's indigenous communities, after 61 years of one-party rule. Lugo had made

campaign promises to initiate widespread structural, social and cultural changes, including land reform and respect for indigenous land rights.

In the case of the Yakye Axa, at the end of 2008 President Lugo signed a bill declaring the 15,963 hectares of the disputed land to be 'of social interest' and ordered it to be expropriated from the current owner and handed over to INDI for restoration to the Yakye Axa. The bill was tabled with four Senate commissions and discussed in the session that began in March 2009. However, members of a congressional committee voted against the return of indigenous lands to the Yakye Axa community, thereby undermining the supposedly binding decision made by the IACtHR and dealing a fatal blow to community attempts to regain their ancestral territories.

### Peru

Indigenous peoples in Peru constitute more than half of the national population, yet social conditions for the majority of them continued to be less than adequate during 2009. In addition to ongoing concerns about the chronic lack of basic services such as health and education, and inadequate access to income opportunities, Peru's indigenous peoples continued to face loss of their land, which is often their main remaining asset and only safeguard against complete destitution.

According to the Asociación Inter-étnica para el Desarrollo de la Selva Peruana (AIDSESP), the umbrella organization of Peru's 60 Amazon indigenous groups, oil prospecting and extraction is now occurring in more than 80 per cent of indigenous territories, with many of the concessions overlapping already titled lands of some indigenous communities. In addition, during 2009 the government continued to promote the development of large-scale agro-industry in the coastal zones, where there are a number of communally titled *campesino* properties. Many indigenous small farmers in the coastal regions have been forced to pledge their land titles to obtain commercial loans and now risk losing their land altogether.

In April 2009, indigenous communities throughout the remote Amazon region began a series of blockades and protests against government plans to open up 67 million hectares of the Amazon rainforest and to allow increases in petroleum and other natural resource extraction on indigenous territories. There was no prior consultation or consent.

As a result of the demonstrations of up to 30,000 people, the government declared a state of emergency in the affected areas and in June 2009 sent in heavily armed security forces. The resulting violence claimed a number of indigenous and security force lives, prompted resignations in protest by government officials and increased scrutiny of the billion-dollar deals that were developed with foreign petroleum companies.

In August 2009, Peru's justice minister was summoned to appear before the UN Human Rights Committee, and the UN Special Rapporteur on indigenous rights called for an independent investigation. Nevertheless, the blockades and demonstrations failed to stop the exploration projects. As a result AIDSESP lodged an urgent appeal with the country's Constitutional Tribunal to halt the project in the part of the Peruvian Amazon known as 'Block 67'. According to Amazon Watch, for 30 years the company involved has been discharging more than 1 million barrels a day of untreated toxic waste directly into the rainforest. As a result, the Achuar indigenous people now have unsafe levels of a range of toxins, including lead and cadmium, in their bodies. The fish and game on which they have traditionally depended for food self-sufficiency have also been poisoned.

### Afro-Peruvians

According to the Afro-Peruvian organization Centro de Desarrollo Etnico (CEDET), in 2009 about 55 per cent of Afro-Peruvians continued to consider themselves as living in poverty, with another 23 per cent living in extreme poverty. The combined 78 per cent total compares unfavourably with the 50 per cent average poverty rate for the national population. As a means of highlighting their ongoing marginalization in the face of what they see as continued official indifference, MRG partner organization CEDET, together with Makungu por el Desarrollo, presented in July 2009 the first-ever alternative report on Afro-Peruvians to the UN Committee for the Elimination of Racial Discrimination (CERD) in Geneva. The document strongly challenged the state's official report to the 57th Session of CERD and provided recommendations.

### United States of America

The election of the first US president of identifiable African descent represented a watershed moment in

world history. It inspired hope among marginalized groups in the US and raised expectations that greater respect for diversity would follow in the actions of the administration itself. Having received 67 per cent of the Latino or Hispanic vote and 63 per cent of the Asian American vote, since taking office in 2009 the Obama administration has sought to fulfil election promises to minority groups, all of whom looked forward to seeing some reflection of national demographic composition in the new administration.

Hispanics are the fastest-growing minority in the country, and at 14.5 per cent of the total population are well on their way to becoming the largest minority in the US. In March 2009, the new president chose an encounter with the US Hispanic Chamber of Commerce to unveil a comprehensive new education reform plan. And in August 2009 Sonia Sotomayor – whose family background is Puerto Rican – became the first Hispanic woman and the third female ever to serve on the Supreme Court, in the life-tenured position as the nation's 111th justice. Sotomayor's ten-week confirmation hearing raised issues of gender and ethnicity. This included criticism by Republicans over her prior case rulings on property rights, in a racial discrimination lawsuit brought by white fire-fighters in New Haven, as well as her comments on the role of diversity in the judiciary. The new justice received a unanimous vote from Democratic senators, while only nine of the Senate's 40 Republicans voted in her favour.

### Minority representation

Other notable Hispanic appointments included Secretary of the Interior Ken Salazar, Secretary of Labour Hilda Solis, as well as Cecelia Munoz, director of the White House Office of Intergovernmental Affairs, Nancy Sutley, the Chair of the White House Council on Environmental Quality, Louis Caldera, the head of the White House Military Office, and Moises Vela, the Vice-President's Director of Administration.

Eric Holder became the nation's first African American Attorney-General. Two African American women were also appointed: Susan Rice as Ambassador to the UN and Melody Barnes as domestic policy adviser. President Obama also named Asian Americans Eric Shinseki and Nobel Prize-winning physicist, Steven Chu to serve as Secretary of Veterans Affairs and Energy Secretary respectively.



**Left:** Triqui women dance to music from Oaxaca in Greenfield public library. Over 1,000 Triquis live in Greenfield, California, USA. *David Bacon/ Report Digital.*

The Boston-based non-profit organization United for a Fair Economy reported that African American borrowers stand to lose between US \$71 billion and US \$92 billion in assets. Moreover, foreclosures produce ripple-effect challenges in terms of abandoned houses, devaluation of neighbourhoods and shortfalls in state and municipal services, as well as potential increases in crime.

#### **Religious tolerance – the Fort Hood shooting**

In November 2009, a mass shooting at the world's largest military installation (339 square miles) in Fort Hood, Texas, strongly tested the nation's levels of religious tolerance, particularly the capacity of US society to separate violent acts by individual Muslims from the religion of Islam as a whole.

On 5 November, Major Nidal Malik Hasan, a 39-year-old US-born army psychiatrist of Palestinian descent opened fire on his fellow service members at the Soldier Readiness Centre in Fort Hood, killing 13 people and wounding another 30, before being shot and severely wounded by civilian police officers.

The killings raised a public outcry and risked increasing anti-Muslim feeling across the US. The fact that Hasan's former imam later praised him publicly online for the shooting, while encouraging other Muslims serving in the military to 'follow in his footsteps', did little to calm any anti-Islamic public sentiments.

The shooting was widely condemned, including by Nadal's family, the Council on American-Islamic Relations and by dissident Saudi cleric Salman al-Ouda (reportedly a former inspiration to Osama bin Laden), who expressed concern that the incident would have negative consequences. Analysts and officials discussed Hasan's psychological state and possible motive, including the fact that he appeared upset about an imminent first-time combat deployment to Afghanistan and that his work involved counselling soldiers leaving for and returning from stress-producing battle zones in Iraq and Afghanistan. Brian Levin of the Centre for the Study of Hate and Extremism, according to the *Huffington Post*, suggested that the incident fell somewhere between a crime, terrorism and mental

distress. Iraq Veterans Against the War (Fort Hood chapter) demanded that the military overhaul its mental health care system and halt the repeated deployments of the same troops.

Hasan, who is now paralysed from the waist down as a result of his wounds, was charged with 13 counts of premeditated murder and 32 counts of attempted murder under the Uniform Code of Military Justice, and may face additional charges at court-martial. Following the incident, national surveys by Rasmussen Reports found that 65 per cent of Americans favoured the death penalty in Hasan's case, and that 60 per cent want the case investigated as an act of terrorism. However, 80 per cent also said that they were concerned this could start an anti-Muslim backlash.

#### **Native American land claims**

In an effort to meet campaign pledges to Native Americans, the Obama administration agreed in December 2009 to pay US \$3.4 billion to settle a long-running Native American land claim case. In 1996, Elouise Cobell, a member of the Blackfoot Nation, filed a complaint alleging that for more than a century the US government had mismanaged billions of dollars in income from natural resources on Native American land.

The dispute dates back to the 1887 Dawes Act, which handed over resource-rich Native American communal land to white-owned companies. As in the rest of the Americas, the indigenous concept of communally held land as opposed to privately owned property was an integral part of Blackfoot Nation identity and overall belief system. Nevertheless, under the Act, their territory was divided into individual plots with each family being assigned a portion of land. The individual families were then supposed to be compensated for the use of their land. However, the claims were disputed and grew more complicated with each passing generation.

Many unsuccessful attempts were made to arrive at a settlement, including several trials with the plaintiffs claiming they were owed some US \$47 billion. Under the settlement the US government has agreed to pay US \$3.4 billion to settle the dispute. Following Congressional approval, the Interior Department will use US \$1.4 billion to compensate the 300,000 members of the Blackfoot Nation and establish a US \$2 billion fund to purchase land from them.

#### **Economic recession**

One of the first acts of the new Obama administration was to pass a US \$787 billion economic stimulus package aimed at combating the sharp downturn in the global economy, which several publications, including *The Economist*, attributed to a crisis within the financial sector of the US itself. While the effects of the recession were widespread throughout the US, it had a notably strong impact during 2009 on African American and Hispanic communities, exacerbated by the persistent unfavourable socio-economic gap between these groups and the rest of the population.

During 2009, the US unemployment rate rose to 6.7 per cent, which translates into some 12 million unemployed people. However, figures indicate that for male and female Hispanics, unemployment rose to 12.9 per cent, while the rate for African

Americans reached 16 per cent, more than twice the national average. African Americans are especially susceptible to downturns in the economic cycle compared to other Americans and have not recovered from losses during the 2001 recession.

Among the hardest hit sectors were construction and manufacturing, which employ a much higher percentage of Hispanic workers compared to the general population. In the larger context, rising Hispanic unemployment poses a special challenge not only in the US but also in the rest of the hemisphere, since it results in less money being available for Hispanic immigrants to send back to LAC home countries as remittances.

The loss of jobs also meant an increasing and widespread inability to make mortgage payments, which led to a large number of housing foreclosures in African American and Hispanic communities.

### African American farmers

The issue of foreclosure, dispossession and land loss continues to be a major factor in rural America, even in situations where communal ownership is not involved. In another effort to fulfil campaign promises, President Obama announced plans in May 2009 to provide US \$1.25 billion to settle a long-standing \$3 billion class action discrimination lawsuit brought by African American farmers against the US Department of Agriculture (USDA).

In the 1990s, African American farmers filed a lawsuit (*Pigford v. Glickman*) charging the USDA with a history of racism and discrimination in its federal loan and subsidy programmes. Their charges were supported by the lead plaintiffs' evidence as well as by government reports, investigations and studies over a 30-year period. All concluded that the USDA treated African American, Hispanic, Native American and women farmers unfairly by taking longer to process their loan applications and denying a higher percentage of their loans.

The lack of access to credit over the years may have contributed greatly to a general loss of African American farmland due to foreclosure. In 1978, over 30,000 African American farmers owned land in the US, and it is estimated that currently some 53 per cent of the USDA's land holdings once belonged to African-American farmers.

In 1999, a US District Court judge certified the discrimination case as a class action suit. The USDA agreed to an out-of-court settlement of between US \$450 and US \$600 million. Although it was the biggest settlement in history for a civil rights case, it was considerably less than the farmers had asked for and the plaintiffs were barred from participating.

With over 14,000 outstanding complaints and another 3,000 submitted that have not been processed, in 2009 the president decided that the US \$1 billion the government has already provided was insufficient, and requested instead a US \$1.25 billion settlement package. The USDA also ordered a temporary suspension of all foreclosures.

### Hispanic farmers

Other minority farmers with similar complaints of discrimination have also been seeking redress. During 2009, more than 100 mostly Mexican American farmers in several states sought to have charges of loan grant discrimination against the

USDA treated as a class action suit in light of their land losses.

The suit was first filed in 2000 and sought to end what the Hispanic farmers claim is blatant discrimination in the awarding of operating and disaster loans between 1981 and 2000. Furthermore, in 2009 they stated that nothing has changed since the suit was filed nine years ago and cited the continuing power loan officials have to influence land ownership and profitability, which, when misused, can become an effective instrument for dispossessing them of their land and water rights.

Hispanic farmers claim that the members of local USDA loan boards were mostly prosperous farmers who gave loans to their friends and acquaintances. This caused excluded Hispanic farmers to go bankrupt, leading to foreclosures. The lands would then be put up for auction and bought, usually by prosperous local white farmers.

Although a federal judge granted class-action status to the case filed by the over 14,000 African American farmers in 1999, another judge denied the same designation for the 100 plus Hispanic farmers. Using the example of the African American farmers' lawsuit, lawyers for the Hispanic farmers petitioned the US Supreme Court in 2009, seeking a review of the decision that their clients cannot sue as a class. Thus far the court has rejected their request. ■



# Asia and Oceania

Felix Corley, Jared Ferrie,  
David Fickling and Farah Mihlar

# Central Asia

Felix Corley

Authoritarian rule is now the norm in the five former Soviet republics of Central Asia: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. The political, economic, social, religious and media spheres are closely controlled in these countries – entirely in Turkmenistan and Uzbekistan, and to a lesser but growing extent in the others. Following the events of 2009, the US-based independent monitor Freedom House in 2010 put all five states in the ‘not-free’ category.

Potential threats are crushed or prevented from emerging, using the pretext of stability and national security. This means the suppression of human rights and severe restrictions on the activities of independent religious communities, businesses, trade unions, media and NGOs. The population is kept as far as possible from foreign contact outside state control.

The Turkmen government has gone furthest in establishing total government control over society. Ethnic minorities have long faced state-sponsored exclusion policies that verge on racism, with non-

*Below:* Members of the Jewish community in Bukhara, Uzbekistan. This community can be traced back to the twelfth century, but it is rapidly depleting as many leave to avoid persecution. *Leo Erken/Panos.*

ethnic Turkmen often removed from jobs in state institutions. Religious communities have struggled to be allowed a legal existence. Uzbekistan too has long followed highly authoritarian policies, including mass arrests of those presenting a real or imagined threat to the state. In 2009, Kyrgyzstan and Tajikistan have both moved dramatically towards authoritarianism, with new laws in each to tighten already strict controls on religious activity. The Kazakh government, despite withdrawing a proposed harsh law on religious activity in 2009 and taking over the chairmanship of the Organisation for Security and Co-operation in Europe (OSCE) in 2010, is following this trend, even if it still presides over the most open of the Central Asian states.

Ethnic minorities often feel marginalized as political, economic and social power is held by the dominant ethnic community. Even then, power rests in the hands of a few powerful families.

Governments in the region have often followed the rhetoric of esteeming ‘traditional’ religions (essentially state-controlled Islamic communities and the Russian Orthodox Church, with Jewish and Catholic minorities added as an afterthought). Communities outside this category face vilification through the media, limits on their legal activity and,

## Special report

# Religious minorities in Central Asia

The governments of all five Central Asian states – Turkmenistan and Uzbekistan most intensively, but also Kazakhstan, Kyrgyzstan and Tajikistan – actively try to control all religious activity, along with other forms of actually or potentially independent civil society activity. Despite rivalry between these states, such control mechanisms are remarkably similar.

No Central Asian state allows any religious community to operate totally freely. Most of Central Asia’s population is Muslim and the Islamic community is under the tightest government control. Leading clerics are chosen by the president or government, and close government control is kept over lesser appointments. The Muslim communities cannot freely choose chief muftis or other leaders. Turkmenistan’s presidents, for example, have frequently replaced chief muftis (most recently in September 2009, the fourth in a decade). Independent Muslim groups outside the framework of the state-controlled Muslim structures find it hard or impossible to function. All other religious communities are controlled from the outside, through state pressure and threats.

The Russian Orthodox Church and the Jewish community are often offered by state officials as examples of the benign approach of Central Asian governments to minorities. But this approach lasts only as long as the Russian Orthodox and Jewish communities express (a sometimes) effusive loyalty to whichever president is in power, and do not attempt to reach beyond their usual ethnic constituencies. Even this does not guarantee protection from state hostility; as reported in 2008, Tajikistan’s only synagogue was bulldozed to make way for a presidential palace. Catholics and Lutherans also have similar levels of protection, although they face the

same controls as all other faiths.

The communities which bear the brunt of government pressure include independent Muslims who function outside state-controlled structures, many Protestants and Jehovah’s Witnesses. These suffer raids by regular and security police on services and meetings, closures of places of worship, confiscations of literature, interrogations, beatings, threats, fines, short-term detentions and longer prison sentences. Some of those held by the authorities have died in detention amid allegations of torture. These attacks leave a marked sense of fear among many religious communities that any public activity, especially criticism of or even publicity about state actions against them, could lead to further reprisals.

Some of these actions against religious freedom are allowed by domestic laws, which often break the relevant country’s constitution as well as international human rights agreements the countries have ratified, such as the International Covenant of Civil and Political Rights (ICCPR). Yet officials often go far beyond what is allowed, knowing that their government has no willingness to prosecute them for human rights violations. Trials of religious believers who are unfavourably regarded by officials are often conducted unfairly, with breaches of legal procedures laid down by domestic laws. Cases have occurred of religious believers being prosecuted and convicted for offences which do not exist in domestic law.

In 2009, the Kyrgyz and Tajik governments brought in new highly restrictive religion laws, despite strong national and international opposition. The Kazakh government tried in 2008–9 to tighten its laws on religious activity, but this sparked intense opposition from local religious communities and human rights defenders, as well as the international community. Apparently for fear of the damage this would cause Kazakhstan’s image before taking over the chair of the OSCE in 2010, the government dropped its proposed legislation. However, it has announced its intention to bring in similar measures in 2011.

The Kazakh government’s website for its 2010 chairmanship of the OSCE claims that its



policy is one of 'freedom of conscience and freedom of religious confession', and 'non-interference by the state in the internal affairs of religious associations'. However, within Kazakhstan, officials from the president downwards actively promote intolerance of religious minorities. In 2008, President Nazarbaev warned that, 'tens of thousands of different missionary organizations work in Kazakhstan. We don't know their purposes and intentions, and we should not allow such unchecked activity.' Another sadly typical example was the claim in a film shown in Aqtobe to military cadets in December 2008 by the Justice Ministry's Religious Affairs Department that the Hare Krishna faith incites devotees to commit murder.

Common features of the countries' laws on religious activity which defy international human rights commitments are many. An example is the bans on unregistered religious activity. Small-scale private religious meetings in private homes can be punished as an administrative or even a criminal offence. Religious communities which cannot or do not want to acquire state registration risk raids and imprisonment if they meet together as a community. Many have had to go underground and meet only in small groups. Arbitrary denial of registration allows officials the possibility of preventing communities they regard with disfavour from gaining a legal existence. Independent Muslims, non-Muslim communities with members of a traditionally Muslim background, and faiths which are new to the region are most likely to face arbitrary denial of registration. Even for communities that face less official disfavour, registration can be time-consuming and expensive to arrange, requiring permission from a range of state agencies.

Other aspects of religious activity which attract active official hostility in all five states – particularly but not only by communities without state registration – include owning or renting places of worship, carrying out religious education inside a community, sharing beliefs with others and maintaining foreign contacts. ■

to varying degrees, raids on their members, beatings, fines and imprisonment. Religious publications mostly face government censorship. The states often obstruct invitations for foreign fellow-believers to visit and take part in religious events and activities, while religious communities' foreign contacts remain a source of official suspicion. States often refuse permission for religious communities – especially those which the governments regard with disfavour – to open new places of worship.

### Kazakhstan

Kazakhstan attempts to keep all religious communities under tight government control or supervision. Surveillance by the National Security Committee (KNB), the country's intelligence agency, is often reported by minority religious groups, as is the use of highly intrusive questionnaires requesting information such as believers' political views and the names of religious leaders' close friends. Among the violations of human rights faced by religious minorities and other religious groups are: attacks on religious freedom by officials from President Nursultan Nazarbaev downwards; censorship; state-sponsored encouragement of religious intolerance; legal restrictions on freedom of religion or belief; raids, interrogations, threats and fines affecting both registered and unregistered religious communities and individuals; unfair trials; the jailing of a few particularly disfavoured religious believers; restrictions on social and charitable work; close police and KNB surveillance; and attempts to deprive religious communities of their property. These are coupled with violations of other fundamental human rights, such as freedom of expression and of association.

Unregistered religious activity, despite being fully allowed in the country's international human rights commitments and not specifically banned in Kazakh law, is penalized under the Administrative Code. Those brought to trial often state that legal proceedings are conducted unfairly and not in accordance with Kazakh law. Members of religious minorities such as the Council of Churches Baptists, who oppose registration on principle, have been fined. When they refuse to pay these fines they often have property, such as cars, washing machines and livestock, confiscated. In several cases, leaders refusing to pay fines have been imprisoned for up to five days and court-ordered bans on their congregations have been handed down. Such penalties remain in

various drafts of a proposed revised Administrative Code, expected to be adopted in late 2010.

In July 2009, Gay McDougall, the UN Independent Expert on Minority Issues (IEMI), visited Kazakhstan. She echoed calls by local religious communities and human rights defenders for the abolition of any registration requirement. McDougall also complained that the Assembly of the People of Kazakhstan – designed to give a voice to ethnic minority communities – is a top-down body which is not elected on a representational basis. She also called for greater sensitivity in the promotion of Kazakh as the state language, fearing that this could have an adverse impact on those who may need greater time to adapt from using Russian.

The majority religious faith is Islam, but the minority of Muslims who choose to practise their faith outside the framework of the pro-government Muslim Board face particular pressure. In February 2008, 14 out of 15 Muslims arrested in April 2007 were given prison sentences of between 14 years and 19 years 6 months at a closed trial in Shymkent. The remaining prisoner received a three-year corrective labour sentence.

The deliberate nature of such official hostility towards the right of all to freedom of religion or belief was illustrated by 2008–9 moves to adopt harsh new legislation changing the religion law and amending the Administrative Code and other laws. This would have imposed further controls on religious activity: for example, small religious groups would not have been allowed to maintain open places of worship. Penalties for holding religious services, conducting charitable work, importing, publishing or distributing religious literature, or building or opening places of worship in violation of 'demands established in law' would have been increased. Repeat 'offences' would have led to a religious community being banned. These changes were approved in November 2008 by the parliament, the lower house of which is composed exclusively of deputies from the president's party. These were found by the Constitutional Council to violate the Constitution, as local and international human rights defenders had repeatedly pointed out. However, in its National Human Rights Action Plan, the government has indicated that it will be introducing similar legislation in 2011.

The authorities are particularly suspicious of legal foreign residents involved in religious activity. A

growing number are being expelled. Indeed, foreigners are subjected more widely to human rights abuses. In May 2009, following a nine-day visit to Kazakhstan, Manfred Nowak, the UN Special Rapporteur on torture, stated that, 'there are some groups that run larger risks of cruel, inhuman and degrading treatment than others', noting that the likelihood for foreigners to be subjected to such treatment seems to be 'higher than average'.

AI expressed concern in September 2009 that, 'Refugees are not effectively protected and continue to be at risk of *refoulement* or abductions.' *Refoulement* is a term describing when refugees are forced to return to situations where they are at serious risk of persecution; it is expressly prohibited in the 1951 Convention relating to the Status of Refugees, which Kazakhstan has acceded to. AI warned that the Kazakh authorities continue to cooperate with China, Russia and Uzbekistan in the name of regional security and counter-terrorism, 'in ways that breach their obligations under international human rights and refugee law'.

### Kyrgyzstan

In January 2009, a highly restrictive new religion law came into force, amid protests from human rights defenders, religious communities and international bodies, including the OSCE. Human rights defender Aziza Abdirasulova, of the Kylym Shamy (Candle of the Century) Centre for Human Rights Protection, told the news service of the Norway-based religious freedom organization Forum 18 that, 'The new law contradicts international human rights standards.' According to Shamy, the new law broke the Constitution's guarantee that, 'No laws restricting freedom of speech and freedom of the press may be adopted', as well as the guarantee of freedom of 'thought, speech and press ... [and] unimpeded expression of those thoughts and beliefs'. Some of the new restrictions, for example the wide-ranging bans on 'proselytism' and the distribution of religious literature, restrict both freedom of speech and freedom of the press. A legal challenge in the Constitutional Court was dismissed in July 2009.

The new law requires all religious communities to re-register with the State Committee for Religious Affairs (SCRA) by 1 January 2010. It bars communities not registered by the SCRA and the Justice Ministry from receiving legal status. Those with fewer than 200 members are prohibited from

registering with the SCRA. All the 200 must be adult Kyrgyz citizens, who must provide personal data. The application also needs to include information about the organization's religious faith, form of rites, history in Kyrgyzstan and attitude towards marriage, family, education and military service. Finally, written permission is needed from the local authorities for the use of premises where the community meets.

Smaller religious communities, including some Protestants, Baha'is and Hare Krishna devotees, expressed concern to human rights monitors and international media that they did not have enough members to register. Throughout 2009, SCRA officials refused to process registration or re-registration applications in all but a handful of cases, citing the absence of approved regulations to enact the new law.

Officials of the Prosecutor's Office, police, national security service (NSS) security police, local executive authorities and the SCRA have visited many non-Muslim religious communities across the country. Jehovah's Witnesses in Maili-Suu faced raids and summonses in April 2009. In some regions, branches of Protestant Churches, which had been officially registered in Bishkek, were ordered by the local authorities in spring 2009 to stop their worship meetings, saying that their 'registration in Bishkek does not cover their activity' outside the capital.

The 2009 law banned the sharing of one's faith, required state examination of all imported religious materials and banned all distribution of religious literature and other materials in public places. It also required the registration of all religious education programmes, whether full- or part-time. Such religious education can only be conducted by registered religious organizations and with local authority permission.

Since the religion law was enacted, the SCRA has been drafting a new Law on Religious Education and Educational Institutions which, if adopted in its current form, would impose further restrictions on the activities of religious organizations and educational institutions. An autumn 2009 draft would reportedly impose sweeping controls on who could open religious educational institutions. It would ban all but approved and licensed institutions, limit the numbers of students in such institutions and ban individuals from seeking religious education

abroad without state approval. A joint Council of Europe (CoE) and OSCE legal review of the draft law found that it imposes 'undue constraints on religious activity in the country' and that 'provisions are inconsistent with OSCE commitments and general international human rights standards'.

In August 2009, Kyrgyzstan established a state Coordinating Council on the Struggle against Religious Extremism. The execution of council decisions will be obligatory for the different parts of the government, but officials were unclear as to what they mean by religious extremism and what the council will do. It is led by the SCRA, the Interior Ministry and the NSS security police, and will have members from other parts of the government, the state-sanctioned Muslim Board and the Russian Orthodox Church.

A draft Strategy on State Policy in the Religious Sphere from 2009 to 2015, made public in October 2009, aimed to tackle 'external and internal threats connected with religion, and the rise of radical religious movements and inter-confessional contradictions in Kyrgyzstan'. It proposed a list of banned religious organizations, set out new restrictions and called for tighter monitoring of foreign missionaries. Visas for foreigners involved in religious activity have already been cancelled or denied.

### Tajikistan

In recent years, Tajikistan has seen an increasing crackdown on all religious activity that is independent of state control, in which minority religious believers and groups – both inside and outside the majority Islamic community – have been major targets. Starting in 2007, many mosques or Muslim prayer halls, the country's only synagogue in the capital Dushanbe and Protestant churches have been closed, bulldozed or threatened with confiscation. All Jehovah's Witness activity was permanently banned in 2007 and two small Protestant communities were 'temporarily' banned in that year. One of these was allowed to resume activities in late 2008. State officials publicly denied in 2008 that the bans were in operation, despite official statements to the contrary and the testimony of the minorities concerned.

The Tajik authorities continued to impose such bans in 2009. The activity of a Baptist congregation in Dushanbe was forbidden because they met for worship in a private home without state registration. Commencing in February 2009, the Supreme Court

banned the Salafi school of Islamic thought. In September 2009, a religious affairs official defended criminal charges against up to 17 members of the banned Jehovah's Witnesses, for allegedly inciting inter-religious hatred. This carries a sentence of between five and nine years' imprisonment.

A harsh new law on religions was approved by the Tajik parliament in March 2009. It was signed by President Emomali Rahmon in the same month and came into force in April. The law was adopted despite protests by local human rights defenders and religious communities, as well as international bodies, including the OSCE and the UN Special Rapporteur on freedom of religion or belief, Asma Jahangir. She warned that enacting such a law 'could lead to undue limitations on the rights of religious communities and could impermissibly restrict religious activities of minority communities'.

Restrictions imposed by the law include provisions that: the founders of a religious organization seeking registration must show a document from their local executive body certifying that they have lived in their territory and adhered to the religion for at least five years; the government must now approve all published or imported religious literature, which can only be in an 'appropriate quantity'; the number of mosques is limited; state controls are imposed on the appointment of imams, although other faiths appear free to appoint their own leaders; Muslim prayers can only take place in mosques, homes and cemeteries, not at places of work or on the streets around mosques when mosques are full; all religious organizations must get the consent of the government to invite foreigners or attend religious conferences outside the country; and written permission from both parents is required before children can take part in religious education.

The new law also bans unregistered religious activity, in defiance of international human rights standards. Since 2006, almost no religious organizations have reportedly been given state registration. Shortly before the re-registration deadline of 1 January 2010 imposed by the new legislation, fewer than half the religious communities in the country had been re-registered. Some mosques had already been refused re-registration, and many were waiting for registration, along with the Baptist Union and the country's only synagogue. When re-registering some non-Muslim communities, the Religious Affairs Department imposed territorial restric-

tions on their activity. In December 2010, Deputy Culture Minister Mavlon Mukhtarov stated that if the number of mosques in a local area exceeds the new religion law's mosque quotas, 'we will close down mosques which exceed the quotas'.

### Turkmenistan

All religious activity remains under tight government control. The Muftiate (Muslim Board) is controlled from the inside through the state's appointment of the chief mufti and other imams, while all other faiths are controlled from the outside through intimidation, threats and arbitrary interference. All religious communities have to abide by the highly restrictive law regulating religious practice, which bans all unregistered religious activity and strictly limits registered religious expression.

Although the government allows Sunni Islam to operate (within tightly controlled limits), this is not the case for Shia Islam, which is mainly professed by the ethnic Azeri and Iranian minorities in the west of the country. Under former President Saparmurat Niyazov (who ruled for 21 years and died in 2006), a Turkmen-speaking and ethnically homogeneous Turkmen national identity was promoted, of which Sunni Islam was seen as a part. The policy continues to be evident in official harassment of ethnic Turkmen members of religious minorities, as well as of non-Turkmen minorities. Ethnic Turkmen who are members of non-Muslim faiths face public humiliation and accusations from officials of betraying their nation. And while the Russian Orthodox Church is tolerated, the Armenian Apostolic Church has been banned from being revived. An estimated 15 per cent of those who attend Russian Orthodox churches are said by local people to be Armenians. No Armenian Apostolic communities have legal status.

Acquiring new places of worship is almost impossible for religious communities. While the Russian Orthodox Church, perhaps the least restricted faith, was finally able to consecrate three new churches in 2009 after long official obstruction, other communities without existing places of worship are confined to ad hoc arrangements to which the authorities can object at any point. No official compensation has been given for the many mosques, the Hare Krishna temple and the Seventh-day Adventist church bulldozed, or for Protestant churches confiscated in the last decade. All the mosques which have



**Right:** An Uzbek family in a village in the Dashogus region of Turkmenistan. *Carolyn Drake/Panos.*

used as an instrument of social control. Detained religious believers are routinely beaten in custody and some women have reported being raped or sexually abused by officers or threatened with such abuse. One female Jehovah's Witness minor was sexually abused in police custody in Samarkand in 2008. Such sexual assaults, or even rumours of such assaults, have a double impact on women in such a conservative society where conventions of 'honour' are deeply ingrained. Religious believers given long prison terms for practising their faith, as well as other prisoners in Uzbekistan, continue to face torture and ill-treatment once in prison or labour camp. The UN Committee against Torture found in November 2007 that the use of torture by Uzbek state officials is 'routine'.

While the state-backed Muftiate is under complete government control, with the state appointing the chief mufti and all clerics, Islamic groups which choose to practise their faith outside this structure face intense state pressure. *Mahalla* committees maintain lists of active religious believers in their district, both Muslim and non-Muslim, and many independent Muslims have been imprisoned. In late 2008, a fierce campaign was unleashed against followers of the late Turkish Muslim theologian Said Nursi; in 2009, according to Forum 18's calculations, at least 47 adherents had received prison sentences totalling some 380 years, with the possibility that other trials of Nursi adherents went unreported. AI put the number of Nursi prisoners at over 68. At the end of 2009, one Protestant pastor and three Jehovah's Witnesses remained in prison serving long sentences. Also in 2009, Forum 18 knew of 21 religious minority believers (Protestant Christians, Jehovah's Witnesses and Baha'is) who received prison terms of between 5 and 15 days to punish them for their religious activity. Fines are routinely handed down for various religious 'offences', such as religious meetings in private homes, with fines often 100 times the minimum monthly wage.

Uzbekistan's highly restrictive 1998 religion law bans all unregistered religious activity, and penalties are imposed through the administrative and criminal codes. Gaining state registration for new communities – especially for independent Muslim communities, non-Muslim communities led or made

up largely of ethnic Uzbeks or others deemed to be of Muslim background – is all but impossible. Also banned and punishable in law is any form of religious education without specific state approval, as well as the sharing of one's faith. Religious literature is censored by the government; specific permission is required to print or import any religious publication, with quantities to be determined by officials.

While the law lays down strict limits on 'permissible' religious activity, many of the restrictions imposed by officials are arbitrary and go far beyond what the law declares. Religious communities – whether Muslim or of other faiths – are not able to buy, build or open places of worship freely. Some places of worship have been confiscated. Open as well as covert surveillance of religious believers and communities by the security police is widespread. The NSS has sent agents to monitor worship, recruited spies within communities and even hidden microphones in places of worship.

Mosques have on occasion been arbitrarily banned from allowing women or children to attend, while night prayers in the Muslim holy month of Ramadan have been banned in places. Non-Muslim communities complain that they are banned from holding religious services in Uzbek, being forced to use Russian. Religious books or recordings, whether or not they have been specifically banned, are routinely seized during police raids on religious communities. Courts frequently order such confiscated literature, including Christian Bibles, to be burned.

Numbers of *hajj* pilgrims are restricted by the government to about 5,000, which is about a fifth of the pilgrim quota granted by Saudi Arabia. All pilgrims need approval from their local authorities, the NSS and the Hajj Commission, which is controlled by the state Religious Affairs Committee and the Muftiate. Active religious believers of a variety of faiths have had the required two-year exit permission withheld, preventing them from travelling abroad even if they have a valid passport. Foreign citizens legally resident in Uzbekistan have been expelled to punish them for religious activity. Jehovah's Witness Irfon Khamidov was expelled in May 2009, one day after the end of his two-year prison sentence; Khamidov had lived in the country for some years. Before being deported to his native Tajikistan, he was allowed to see his two-year-old son for the first time for one night only. ■

been built in recent years have been by decision of the government and often with government funds, despite the constitutional separation of religion from the state. No independent mosques are allowed to open or function.

Religious believers – especially Protestants and Jehovah's Witnesses – have been fired from their jobs or evicted from their homes because of their faith. Their children have also been threatened with expulsion from schools, including in 2009.

Religious communities are forcibly isolated from their fellow-believers abroad. Many known active religious believers are blacklisted from leaving the country, even if they have a valid passport. Rarely do officials give reasons why individuals are entered in the computer travel blacklist. Those barred from travelling at Ashgabad airport receive no compensation for their wasted airplane tickets. In previous years, the government allowed only 188 Muslim pilgrims to travel each year on the *hajj* pilgrimage to Mecca, but in 2009 it banned any from travelling, citing fears of the spread of the H1N1 virus. Turkmenistan's *hajj* quota is believed to be about 5,000. Only in exceptional circumstances does the government's Religious Affairs Committee allow religious communities to invite fellow-believers from abroad.

No alternative to compulsory military serv-

ice is offered, and Jehovah's Witnesses have in recent years borne the brunt of this. Speaking at the Human Rights Council (HRC) in Geneva in March 2009, the head of the Turkmen government delegation Shirin Akhmedova rejected the recommendations from numerous international organizations and oversight mechanisms – including the UN Special Rapporteur on freedom of religion and belief, Asma Jahangir – that Turkmenistan introduce a civilian alternative to compulsory military service. While in 2007 and 2008 most conscientious objectors were given suspended sentences, living at home with many restrictions and often having to hand over some of their earnings to the state, the policy of imprisoning conscientious objectors resumed in May 2009.

### Uzbekistan

Of all the states of Central Asia, the government of Uzbekistan has gone the furthest in deploying force against religious believers as part of its system of control over all religious activity. Religious worship and other religious meetings are at risk of raids by the security police, the National Security Service (NSS), ordinary police, and local administrative officials, as well as by members of the local *mahalla* (neighbourhood) committees, which are

# South Asia

Farah Mihlar

South Asia is likely to remain high on the international political agenda in 2010, particularly due to the worsening situation in Afghanistan and Pakistan that is linked to global geopolitical and security challenges. Increased attacks by al-Qaeda and the Taliban, and the failure in 2009 by the governments of Afghanistan, Pakistan and their international allies to limit their activities, are putting the lives of large numbers of civilians under threat. In such situations of conflict minorities, including Christians and Sikhs in Pakistan's North West Frontier Province (NWFP), are among the most vulnerable. Communities become trapped between warring sides and are victims of large-scale human rights violations and displacement.

The fortunes of the rest of South Asia remained mixed throughout 2009. Sri Lanka entered a new phase in its post-independence history with the end of a bloody 30-year conflict. The situation in Sri Lanka for ethnic minorities, however, remains of concern as targeted human rights violations continue, and there is little talk of post-war reconciliation or a political settlement involving minorities. At the close of 2009, Nepal was nearing a political crisis. The country's attempt to draft a constitution, following the end of a conflict and the shift from a monarchy to a republic, was close to a breakdown due to disagreements between political elites and the Maoists. In spite of its increasing political and economic influence, the regional super-power India failed to play a constructive role in the case of both countries. In India, despite strong constitutional guarantees on minority protection, there were reports of human rights violations against minorities, indigenous communities and Dalits.

A growing trend of radical, sometimes militant, nationalism and religious extremism throughout the region is posing a major threat to religious minorities. In Pakistan, the Taliban and other Islamic

## Special report

# The rise in religious extremism in a minority context and its impact on women: a look at the situation of Muslims in Sri Lanka

Sri Lanka's 8 per cent Muslim population has experienced major cultural changes that have accelerated in the last two decades. During this period, there has been a religious resurgence, bringing with it both a greater emphasis on religious identity and a rise in radicalism among Muslims. This is manifest in a significant shift in religious practices and identity, demonstrated by such basic forms of expression as the dress code for Muslim women. Previously influenced by neighbouring Indian Tamil culture, Sri Lankan Muslim women are increasingly adopting a dress code more closely linked to religious and cultural practices of the Arabian Peninsula.

In Sri Lanka, social and cultural changes, increased radicalism and a hardening of attitudes are not entirely unique to Muslims. They have been among the main social consequences of the 30-year ethnic conflict in the country and have affected all religious communities, including Buddhists, Christians and Hindus.

Much of the research that exists on issues of



religious resurgence and radicalism, particularly in Muslim societies, is on Muslims in a majority context or in a religious state. But, sometimes the very fact that a community is in the *minority* can also bring about such changes. The dynamics of religious change differ in a minority context to a majority one, and women can be particularly affected by extremism in such situations.

There are multiple social, political and economic factors that have contributed to the recent religious and cultural changes among Muslims in Sri Lanka. They cannot all be discussed here, but a few should be highlighted in order to enable a better understanding of the changes that have occurred. The Sri Lankan conflict was largely fought between the

**Above:** Veiled Muslim women walking in the streets of Eravur, Eastern Sri Lanka. *Dushiyanthini Kanagasabapathipillai.*

majority Sinhalese and the largest minority group, the Tamils. Nevertheless, Muslims were deeply affected, especially those living in the war-torn north and east of the country. As the 'other' community, i.e. the second largest minority, however, the impact of the conflict on them was rarely considered, and the Muslim community was repeatedly left out of attempts at conflict resolution.

This contributed to an increasing need felt by many Sri Lankan Muslims to redefine their identity beyond the national level to a more global one, encompassing

the 'ummah' or a global Islamic community. Constant attacks and harassment against the Muslim community by the Tamil Tigers (LTTE), who fought the Sri Lankan government until 2009 for a separate state for Tamils, also led Muslims, particularly those living in the north and east of the country, to dissociate themselves from Tamil society and culture.

Muslims in Sri Lanka have also been affected by broader political and religious trends, including global power dynamics, affecting Muslims everywhere. They too are influenced by the growing transnational Muslim discourse on issues affecting Muslim communities and criticism against states in the global North for their foreign policy positions towards Muslim countries and populations. The last decade has seen an acceleration of protests outside mosques in Sri Lanka over the situation in Afghanistan, Iraq and the Occupied Palestinian Territories.

A combination of these factors has led to a resurgence of Islam and an Arabization of religion and culture among Sri Lankan Muslims in the past two decades. This is not an entirely new phenomenon. There have been occasions in history, such as during Sri Lanka's independence movement, when Muslims linked their identity to Arab traders and, on various occasions, took on aspects of Arab cultural practices. But the scope and extent to which this is occurring now is unprecedented.

This trend has been intensified by two further factors. First, when Sri Lanka's economy was liberalized in the 1980s, a large number of Muslims belonging to lower-income categories took up employment as migrant workers in the Middle East. As these workers began returning from countries such as Saudi Arabia and Kuwait, they brought home religious influences and practices that were markedly different from those in Sri Lanka. Since the eighth century, when Islam was brought to Sri Lanka by Arab and Indian traders, Indian Tamil and Sinhala Buddhist influences became woven into religious practices and culture. The 'new' Islam brought back by migrant workers was critical of the 'old' Islam, particularly with regard to dress code and traditional customs associated with births, marriages and funerals.

Second, funds have poured in from Saudi Arabia

to Sri Lanka for scholarships and charitable activities. These are generally linked to a particular school of Islam known as Wahhabism, which is widely considered by academics and commentators to be a more radical version of Islam. In the last few years, there have been at least two students from every major *madrassa* or Islamic religious school in Sri Lanka who have been awarded scholarships to study at Saudi universities; the scale of this funding is a recent development. Moreover, this is replacing the previous practice of sending such students to study in India.

One of most obvious indicators of the changes occurring among Muslims is the shift in women's dress code. Until recently, Muslim women wore Indian saris. Young girls wore *sahwar kameez* (long shirts with trousers), an outfit seen all over South Asia. They draped their *mundanis* (long scarves made of light fabric) over their breasts and, when necessary, such as in prayers, used it to loosely cover their heads. However, in the last 20 years or so, Sri Lankan Muslim women have increasingly begun to shun this dress code in favour of an Arab-style dress with a headscarf, in some instances combined with a face veil, and more often than not, entirely in black. This dress code shows no Sri Lankan or even South Asian influence. In the crowded streets of many big cities in Sri Lanka and in popular public spaces in the capital city Colombo, Muslim women are now more clearly identifiable.

In any society, particularly in a minority context, it is not unusual for women to be forced into taking on the role of embodying the group's cultural or religious identity – Muslims in Sri Lanka are not alone in this. However, in Sri Lanka, the shift in dress code appears to have happened largely voluntarily. None of the women interviewed by MRG spoke of being forced to adopt the headscarf or the Arab-style dress. There is, however, considerable influence and pressure exerted by male and female religious preachers to maintain the practice. Imams and religious leaders argue that it is compulsory for women, while there is far less pressure on men to abide by any specific Islamic dress code. Often, mosque sermons throughout the country are dedicated to the theme of how women should dress and behave, providing examples and condemning those who do not comply.

Interestingly, many women have also chosen to use the headscarf to achieve some level of emancipation. They feel that they can negotiate more freedoms, including being able to travel and participate in public life. These would previously not have been encouraged in some conservative traditional sections of the community. A young Muslim girl studying at Ummul Mumineen, a Muslim finishing school, said in 2007:

*'Traditional thinking parents try to stop girls' education. In Islam, as long as religion is adhered to, a woman can advance in education – this is very liberating. If our husband dies, we have to be able to continue to fend for ourselves. Old-fashioned people are scared to send girls to go on their own to pursue their studies. We can do it as long as we are in hijab.'*

Since they live in a minority context, Muslim women's freedoms are not necessarily limited to those expressed by their own tradition. They have the desire to access the same rights and freedoms as Sinhalese and Tamil women, despite extremely rare occurrences of discrimination against them as a minority, or prejudice because of their dress code. This specific minority context contributes to their negotiating their emancipation. In response, however, Muslim religious leaders are increasingly trying to dissuade women from taking on demanding careers. Imams argue that Muslim women should not have too much contact with men, even if they comply with the stricter dress code, and warn that families are being neglected. The subtext is that Islamic values are being eroded and that Muslim women are not fulfilling what the religion considers to be their primary role.

Despite these pressures, many Muslim women from all walks of life continue to challenge the various barriers they face both from outside and inside the community. However, with the growing Arab influence on Sri Lanka's Muslims and the resultant strengthening of radical elements, the space for Sri Lankan Muslim women to achieve greater freedom and autonomy could shrink in the years to come. ■

militant groups have endangered the lives of religious minorities, particularly Christians. In India, Hindu nationalist extremists continued to threaten Christians and Muslims, particularly among the poorest and most marginalized sections of society, such as the Dalits. In Sri Lanka and Nepal, Buddhist (in the former) and Hindu (in the latter) radical groups harassed other religious communities and attacked their places of worship.

## Afghanistan

A significant part of 2009 was taken up by the presidential elections that were marred by widespread allegations of fraud, affecting the political stability of the country. The first round of elections was held on 20 August, the result of which was that the incumbent President Hamid Karzai was unable to stave off a run-off, while his side was tainted by widespread allegations of fraud. The second round was fixed for 7 November, but was called off when Karzai's main opponent, Dr Abdullah Abdullah, pulled out of the race. Karzai ultimately gained another term, but his reputation was weakened. Throughout the campaign and during the elections, ethnic issues played out, often causing tensions among communities. In the province of Balkh, in the relatively more stable northern part of Afghanistan, the Institute for War and Peace Reporting said in September 2009 that tensions between Pashtuns and Tajiks were destabilizing the province. Ethnic minorities, such as Hazaras and Uzbeks, also came under pressure as both candidates went all out to vie for their support, which had the potential to decide the election.

Karzai was declared president on 3 November. He has ahead of him an enormous task, as coalition force governments are under public pressure to bring home their troops, and Afghans are increasingly frustrated by the rising violence and the increasing numbers of civilian casualties. Amid domestic and international criticism over high levels of corruption and ineffective governance, the Taliban continues to grow in strength, posing a major security and human rights threat. Between January and December 2009, the civilian death toll rose to 2,412 compared to 2,118 during the same period the previous year, the UN Mission in Afghanistan reported.

In July 2009, President Karzai signed a new law that severely restricts the rights of minority Shia

women. The Shia Personal Status Law was criticized by women's human rights groups for allowing a husband to withhold food from his wife for not having sex with him, restricting women from working without permission and denying women's custody rights over their children. Compared with an earlier draft, there were some changes, but many of the repressive measures remain. It was expected to be discussed in parliament but was approved by President Karzai, reportedly to win over the political support of senior Shia leaders ahead of the presidential elections. A separate family law for the country's Shia, mandated under the Constitution, had been a long-standing demand of the community, which feared the imposition of a family code dictated by the majority Sunni. Many Shia in Afghanistan, including Hazara, endured grave human rights abuses under the religious strictures of the Taliban. Minority Rights Group International (MRG) expressed concern regarding the impact of the law on Shia women. While it appears to have been passed in the name of protecting the rights of a religious minority community, it is in fact in violation of international women's human rights principles. The law also ignores non-discrimination provisions contained in the Afghan Constitution.

## Bangladesh

A month after being sworn in as prime minister in January 2009, Sheikh Hasina, head of the Awami League, faced a mutiny by border guards that left at least 74 people, mainly soldiers in the army, dead. The mutiny was brought to an end with the arrest of some 700 border guards. Apart from this, the political situation in Bangladesh remained largely stable through 2009.

Incidents of violence and land seizures affecting ethnic minorities in Bangladesh were recorded throughout 2009. Odhikar, one of the country's leading independent human rights organizations, recorded 38 incidents of violence against ethnic minorities, including 4 killings, 4 cases of land seizures and 25 injuries. Most of the incidents were perpetrated by local gangs, in some cases reportedly under political influence.

In 2009, the Bangladeshi government asserted its commitment to implement the Chittagong Hill Tracts (CHT) peace accord, and said that it would press ahead with vacating army camps in the area. The peace accord, signed in 1997 between the then

Awami League government and the United People's Party of the Chittagong Hill Tracts, was largely neglected by the previous Bangladesh National Party government. The return to power of the Awami League raised some hopes, but, despite the commitments, human rights violations continued to be recorded against ethnic and religious minority and indigenous communities in the CHT. Evictions and the forced displacement of communities, such as the Mady and Garo in the CHT, continued to be reported by human rights groups and the media in 2009. In February 2009, the CHT Commission stated that, 'Indigenous and religious minorities have been targets not only of land-grabbing, but also of human rights violations including arbitrary arrest, unlawful detention, torture, rape, killing and religious persecution.' In November 2009, the Jumma community blocked streets and protested over the failure to prosecute a soldier who had attempted to rape a Jumma woman. According to the non-governmental organization (NGO) Survival International, seven people were injured as soldiers attempted to break up the protest.

Bangladesh's small Urdu-speaking, non-Bengali Bihari population faced citizenship issues during the 2009. In 2008, local media reported that a High Court had ordered 300,000 Biharis be granted citizenship after over 30 years of living in poor conditions as stateless in camps. Despite being given identity cards to vote in the December 2008 elections, media reports in early 2009 stated that the Biharis had not been provided with passports, restricting their freedom of movement.

The situation for the larger refugee population in Bangladesh, the Rohingya, remained extremely poor. Rohingyas are Burmese Muslims who fled their homeland due to persecution. They live in squalid camps, and have virtually no political, social or economic rights. In June 2009, Bangladeshi media reported that the authorities in Cox's Bazaar district tore down several makeshift huts belonging to Rohingyas. In the same month, Médecins sans Frontières reported that it had treated several injured Rohingyas, who had been violently evicted from their temporary homes by Bangladeshi state officials. In July 2009, groups of Rohingyas leaving Bangladesh, due to insecurity and poor economic conditions, were arrested and detained in Thailand.

In 2009, the US Commission on International Religious Freedom (USCIRF), a congressional

# Local group supported by ruling party activists try to occupy Hindu temple

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**Odhikar, a leading Bangladeshi human rights organization, tells *Farah Mihar* about the unique manner in which religious communities in Bangladesh are affected by state sponsored land-grabs and attacks.**

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In Bangladesh, the perpetrators of attacks against religious minorities are often associated with politicians and the violence is almost always linked to incidents of land grabbing and/or evictions. On 11 September 2009, the *Daily New Age* newspaper reported that a group of local people with backing from ruling party politicians allegedly vandalized idols of a Hindu temple located on a piece of disputed vested property in RM Das Lane at Sutrapur in old Dhaka. (Property known as 'vested and non-resident' property was earlier called 'enemy property', and belonged to the Hindu community that left East Pakistan after the 1965 war between India and Pakistan.)

Local residents said they also fired several rounds of bullets attempting to scare the residents and forcibly

occupy land belonging to Hindu families. These families have lived on this land for over a hundred years. According to eyewitnesses, local police were present at the scene, but did not take any action.

Later, the police deployed forces to take control of the land. Angry residents responded by staging a demonstration at the police station demanding the immediate arrest of the attackers. However, police officers interviewed by Odhikar said no idol was vandalized, though they did admit to the gunshots incident.

The disputed land is supposed to have been owned by a Hindu who left for India in 1947. Ruling party leaders in the area, however, say the land belongs to them and have accused Hindus of encroaching on the land. On 30 March 2009, one of the political leaders, through a court order, evicted at least 15 families from the area.

Raghu Nath, an eyewitness and publicity secretary of the temple managing committee, explaining the incident, said that groups of people with political connections attacked the temple and vandalized the images of gods and goddesses. He alleged that they have been trying to occupy the land and the police are supporting them in this regard. He also said that the same gang went to the temple on 28 April 2009 and injured 10 persons in a bid to occupy the land. A case was filed in this connection, on 29 April, accusing 30 people, but the police had not arrested anyone by time of writing.

'We have been residing here as successors of our earlier generations although we have no papers and documents. A few local leaders prepared fake documents showing ownership of the land and somehow obtained a court order in their favour,' Chanchal Roy, General Secretary of the temple committee, told Odhikar, adding, 'We have neither the money nor the power to fight against the fake claims.' ■

panel, removed Bangladesh from its watch-list of countries noted for violations of religious freedoms, on the grounds that there had been signs of improvement for religious minorities during the December 2008 elections. However, Bangladesh's religious minorities, including Hindus, Christians and Ahmaddiyas, faced incidents of targeted violence. MRG's partner NGO Odhikar recorded a total of 541 incidents affecting religious minorities

during 2009, including assaults, land seizures and one killing. There were also 27 attacks on places of worship during the year, most of them instigated by local gangs or political leaders who acted in a climate of impunity, with police taking no action over the incidents. According to Odhikar, in February 2009, 300 Hindus were injured and one woman raped in Maheshkhali, Chittagong, when gangs attacked a religious event. In March and April 2009,

mainly Hindus were affected when gangs forced some 400 people from their homes in the Sutrapur district of Dhaka. In both places, Hindu temples were destroyed. Supporters or members of the ruling Awami League have been accused of being involved in almost all of the attacks against Hindus. In October 2009, Awami League members fired gunshots and evicted Hindus from their homes, again in Sutrapur. In that incident and others during the month of October, a total of 14 temples were reportedly attacked.

Targeted gender violence is an integral part of the attacks against religious minorities. During 2009, there were two reported cases of rape of religious minority women, according to Odhikar statistics. In January, the wife of a Christian pastor was raped in Chaksing Baptist church in the village of Vennabari, 100 km south of Dhaka. A Hindu woman was also raped in the incident in Chittagong in February. There were no reports as to whether the perpetrators of both crimes were identified or brought to justice.

## India

The first half of 2009 was dominated by parliamentary elections in India. In July, the coalition led by the Congress Party was declared to have won and invited to form a government. Throughout the year, there were a number of cases of human rights violations against ethnic and religious minorities, indigenous communities and Dalits.

In the run-up to the polls, Dalit human rights groups reported that Dalit communities were attacked and otherwise severely affected by election-related violence. In April 2009, MRG stated that political groups used violence and intimidation against Dalits to forcibly take their votes. Dalit villages also faced boycotts for failing to vote for particular parties or candidates.

In April 2009, the UN High Commissioner for Human Rights, Navi Pillay, in a speech to the National Human Rights Commission in Delhi, said that, although India enjoys an array of laws and institutions designed to combat all forms of discrimination, religious and caste-based prejudices remain entrenched. 'Of particular concern is caste-based discrimination, which is still deplorably widespread, despite efforts by the government and the judiciary to eradicate this practice,' Pillay said.

At the international level, India continued to remain a major obstacle to efforts to recognize caste-

based discrimination as a human rights violation. In March 2009, the UN Human Rights Council (HRC) took a significant step in deciding to publish all of the reports of the former UN Sub-commission on discrimination and descent. India voted against this decision. At year's end, Dalit human rights organizations were lobbying for the HRC to put in place a UN framework to eliminate caste-based discrimination. According to the International Dalit Solidarity Network, the EU and Nepal support the framework. International human rights groups say India continues to oppose this and remains the biggest obstacle to effective international action on the issue.

Dalits and Adivasis, indigenous or tribal communities, are among the poorest in India. MRG research during the last several years shows that they barely enjoy basic socio-economic rights and face entrenched and endemic discrimination, including outlawed practices such as having to clean dry latrines by hand and without protective equipment. Tribal communities, in particular, are affected by land disputes and armed conflicts. In its 2009 report, the NGO Asian Human Rights Centre warned that one of the biggest challenges facing the Indian government was the growing security problem arising out of the Naxalite conflict. According to the report, Naxals, or Maoist rebels, are recruited from among marginalized communities, including several indigenous groups, and are now active in 13 Indian states. Violence during the 2009 elections was dominated by Naxalite incidents, and the Asian Human Rights Centre accused Indian political elites of not taking substantive action to resolve the conflict, which is rooted in discrimination, marginalization and exclusion. Indigenous peoples have suffered immensely in the Naxalite conflict, as they face brutal human rights violations perpetrated by the militants and are targeted by the Indian military on the assumption that they are supporting the rebels.

In April 2009, the Indian authorities gave Sterlite Industries India Ltd, a subsidiary of the UK-based Vedanta Resources plc and the state-owned Orissa Mining Corporation, permission to mine bauxite in the traditional homeland of an indigenous community called the Dongria Kondh, international media reported. The two companies stated that they have drawn up proposals to develop the indigenous community's land during the 25-year period that they have permission to mine. However, indigenous

leaders were quoted in the media as saying that they were not consulted in the process.

In the tribal areas of Manipur, continuous incidents of violence were reported. In August and September 2009, tensions rose in Imphal, Manipur, over the killing of a young boy by the military, supposedly during a shoot-out. International and Asian human rights groups have, however, accused the army of targeted killings, which the military then attempts to portray as accidental. At least 17 militant groups are fighting the Indian military in this region, claiming that the government exploits indigenous community resources while preventing the communities from benefiting from them. The military has been accused by international human rights organizations, including Amnesty International (AI), of committing human rights violations against civilians, including extra-judicial killings, abductions, arbitrary arrests and detentions in the guise of counter-terrorism.

In June 2009, at least 12 people were killed and dozens of houses set ablaze when an armed group from the Dimasa tribe attacked people belonging to the Naga community in Assam's remote mountainous region. The area is constantly affected by separatist and tribal insurgencies, and over 50 people were killed in several separate incidents of violence in the three months leading up to this incident. The continuing conflict between indigenous groups, such as Dimasa and Naga, is just one example of the Indian state's failure to tackle competing territorial claims made by the country's many different communities.

The year also saw mixed fortunes for two of India's prominent linguistic and ethnic minorities in the south and south-east of the country. Violence broke out in the southern Tamil Nadu state from January to May 2009 over the military offensive that was taking place in neighbouring Sri Lanka. Several major towns were disrupted by strike actions that on many occasions led to incidents of violence and arson, injuring scores. The response from the ruling party was tardy and limited. The incidents, and Tamil Nadu's concern for the plight of Tamils in Sri Lanka, eased with the conclusion of the conflict there.

In December 2009, the government responded to months of protests and strikes by announcing that it would create a separate state for the country's Telegana people. The new state is expected to be carved out of Andhra Pradesh, but following

the statement the government said that more consultations were required before a final decision would be taken.

In 2009, India suffered a major blow to its reputation for fostering religious pluralism, after the country was put on the USCIRF watch-list of countries with violations of freedom of religion. The large-scale violent incidents in 2008 against Christians in Orissa and the climate of impunity towards violations of religious rights contributed towards this decision.

In February 2009, the Indian Supreme Court ruled that the state authorities in Orissa should provide security for the thousands of Christians who had fled their homes during the religious violence the previous year. The court barred the government from withdrawing troops from violence-prone areas. The same month a Christian man was found dead in the Rudangia village, Orissa, allegedly killed by Hindu extremist groups, media reported.

Christians in India can face threats and intimidation and be forcibly made to convert to Hinduism. According to national newspaper reports in February 2009, 18 Catholic families were forcibly taken to a Hindu temple, where they were made to convert and perform Hindu rituals, as well as then sign statements that they had voluntarily converted.

In May 2009, US-based NGO International Christian Concern reported that a gang set fire to the Holy Spirit Church of God Ministry Church in Andhra Pradesh. This was just one of several incidents where churches were attacked by radical groups. The Evangelical Fellowship of India, which monitors and reports on attacks against Christians, said there was a rise in incidents in the south of the country. Of the 152 incidents against Christians during 2009, 86 happened in southern states, mainly in Karnataka (with 48) and Andhra Pradesh (29). In February, the UN Special Rapporteur on freedom of religion or belief came down strongly on India for its 'pervasive climate of fear and intolerance', and asked the government to provide greater protection for religious minorities, particularly Christians and Muslims.

The situation for Muslims in some parts of India remains tense. Particularly since the Mumbai attacks in 2008, the Indian government has used counter-terrorism measures to arrest and detain large numbers of Muslims arbitrarily. In 2009, the UN High Commissioner for Human Rights urged India to

counter suspicion against Muslims in the country and warned that anti-terrorism laws threatened human rights. In January 2009, thousands of people took to the streets to protest against the imprisonment and killing of two Muslims accused of being terrorists.

The protesters were demanding a judicial investigation into the killings. Many of the protesters said that several Muslim youths had been arrested on minimal evidence in Uttar Pradesh on suspicion of terrorist links. After the Mumbai attacks, the government rushed through new laws, allowing police to hold suspects for up to 180 days without charge.

In April 2009, the Indian Supreme Court rejected a plea by a Muslim student who had been expelled from a Christian missionary school in Madhya Pradesh for refusing to shave off his beard. The presiding judge ruled that it was against India's secularism and associated sporting a beard with terrorism and extremist values.

In 2009, communal riots in India, mainly those conducted by Hindu extremist groups against religious minorities, claimed 23 lives, while 73 people were injured, according to an article written by Dr Asgar Ali Engineer, who heads the Centre for the Study of Secular Society. The article also stated that riots took place in Assam, Bihar, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan and Uttar Pradesh. However, there were no riots in Andhra Pradesh, Chattisgarh, Jharkhand, Kerala, Orissa, Tamil Nadu and West Bengal – all of which have significant minority populations and have seen incidents of violence and rioting in previous years.

The year 2009 saw a series of important court rulings and legal measures, which had a significant impact on issues facing religious minorities in India. April and May 2009 brought some positive developments for victims of the 2002 violence against Muslims in Gujarat. The Supreme Court ordered that cases be 'fast-tracked' or expedited in the Gujarat high court and also directed a 'Special Investigation Team', to investigate the role of the Bharatiya Janatha Party (BJP) Chief Minister Narendra Modi and 61 others in the riots. Two senior state politicians, the BJP's Maya Kodnani and Jaydeep Patel, leader of the Vishva Hindu Parishad (a Hindu extremist group), were arrested for their roles in the communal violence that saw the killing, rape and torture of several thousands of Muslims.

On 31 December 2009, Indian national media reported that the Governor of Delhi, Tajendra

Khanna, gave the go-ahead for the prosecution of senior Congress Party politician Sajjan Kumar, who has been accused of instigating the 1984 anti-Sikh violence that resulted in more than 3,000 killed and several thousand injured.

## Nepal

The political progress that Nepal has made since it became a democracy in 2008 suffered a setback during the course of 2009. In May 2009, Maoist leader and Prime Minister Pushpa Kamal Dahal, popularly known as Prachanda, resigned from his post over a dispute about how the Nepali army is run. The Maoists wanted the country's army commander sacked, a move which President Ram Baran Yadav did not support. The Maoist withdrawal from the government led to a deterioration in the security situation and brought Nepal's peace-building and constitutional process to an impasse.

As 2009 drew to a close, at least four people were killed during three days of protests and strikes called by the Maoists. Nepali media reports stated that the former rebels gave the government one month to sort out the dispute, threatening further action if they did not do so. There is no immediate threat of Nepal returning to conflict, but there is strong likelihood that the security situation in the country could worsen, threatening the peace process. It appears very unlikely that the 601-member Constituent Assembly (CA) will be able to meet its April 2010 deadline to have a draft constitution in place.

The CA, which has a significant representation of minorities, offers a good opportunity for minorities to be involved in the country's peace-building process. However, the stresses of the peace process, combined with the volatile security situation, put the country's minorities and indigenous peoples in a vulnerable situation. Tensions between the Madhesi and Tharu communities and Maoists continued to increase during 2009. In March 2009, transport services in the southern Terai region were disrupted and violence erupted, killing several people in the course of days of protests and strikes conducted by Tharu groups. Tharu were protesting the government's failure to recognize their unique identity by categorizing them as Madhesi. After several rounds of crisis talks between the government and Tharu representatives, an agreement was reached on 14 March to recognize the communities' separate identities. Despite this agreement, groups within the

# Christians in Orissa, India, feel 'helpless'

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**A year after one of the worst cases of religious violence in India targeted at Christians, Father S.M. Michael tells *Farab Miblar* about the latest situation in the affected city – Orissa – and explains the general sentiment amongst the community.**

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'Christians of India are today in a state of deep shock and sorrow at the communal violence unleashed against them,' Father Michael says. In 2008, Hindu extremist groups targeted Christians in Orissa, in attacks that lasted for 45 days, in which a nun was raped, 81 people lost their lives, 50,000 were rendered homeless, 147 churches burnt down and more than 4,000 houses destroyed.

The situation in Orissa remains very tense and many Christians are afraid to return to rebuild their homes. Despite a political change in the state following elections, which saw the defeat of the Bharatiya Janata Party (BJP) government, Hindu extremist groups remain powerful in the area.

Hindu extremist/militant groups such as Vishwa Hindu Parisad (VHP – World Federation of

Hindus) and Rashtriya Svayam Sevak Sangh (RSS) are often accused of being behind attacks such as those in Orissa. 'A distinction needs to be made between political power and movement power. Even though politicians may change, the movements such as VHP and RSS remain powerful,' Father Michael says.

Across India, he says, the situation for Christians varies. Even though in most parts of the country they do not face incidents of violence, they are still targeted by these groups in hate campaigns.

'These fundamentalist groups want to, all the time, create some kind of obstacle or hindrance to religious minorities. They use the media and through other propaganda they brainwash people against Christians, they portray Christians as not being in the mainstream, as not loving India,' he says. 'This can lead to attacks and discrimination in everyday life.'

'Generally Christians feel helpless.' Father Michael explains that a large number of Christians come from the Adivasi and Dalit groups, which results in them facing double discrimination. Because of their social standing they are already among the poorest and most marginalized groups.

Politically, too, he says, Christians are sidelined. 'Because we are such a small number we are not an influential vote bank, so none of the political parties bother to take into consideration our needs.'

'There are constitutional guarantees in India for religious minorities and then there is the practical reality. These don't always correspond,' he says. ■

Tharu community continued to conduct protests in May and June. International human rights groups also accused police of using excessive force against the protesters.

Nepal's Terai lowlands are home to about half of the country's 27 million people, and the residents of the region, known as Madhesi, have long complained of discrimination by the Himalayan nation's mountain communities.

Nepal's foreign minister in the caretaker government, Upendra Yadav, who is also president of the Madhesi People's Rights Forum (the fourth largest party, with 53 seats in the CA) told Nepali media that his party would only continue to support the government if it made a written commitment

to implement the eight-point agreement reached between it and the Joint Madhesi Democratic Front in 2009.

Nepal's 3.6 per cent Muslim population saw some significant positive changes during 2009, mainly in terms of political guarantees. At the beginning of 2009, following five days of protest, the still Maoist-led government reached an agreement with the United Muslim National Struggle Committee to arrange for legal provisions to ensure the independent identity of all minority groups, including Muslims. The government also promised to appoint a Muslim commission to look into the grievances of the community. In June, Nepalese Prime Minister Madhav Kumar expanded his cabi-

net to include two Muslim ministers.

For the first time in the history of the former Hindu kingdom, in September 2009 the Muslim holiday of Eid-ul-Fitr was declared a national holiday and celebrations were conducted across Nepal.

The situation for the country's small Christian population was considerably less positive. A teenage girl and a woman were killed, and over a dozen others wounded, when a bomb went off during mass at the Church of Assumption in Dhobighat on the outskirts of Kathmandu in May 2009. There were 150 people in the church at the time. A fringe Hindu extremist group called the National Defence Army claimed responsibility for the attack. The outfit also said that it had bombed a mosque in the east of the country last year, killing two people. A week after the incident, the same group demanded that the Nepal's 1 million Christians leave the country. Christians are politically marginalized in Nepal, and not a single member of the CA is from the community.

## Pakistan

Pakistan is facing a major political and security crisis, putting large numbers of members of minorities in grave danger. In 2009, the country's security situation deteriorated, with repeated targeted attacks by militant groups killing scores of people. In the early part of the year, Tehreek-e-Nifaz-e-Shariat-e-Mohammadi, an organization affiliated with the Taliban, agreed to a ceasefire after the government gave the go-ahead for the imposition of Sharia (Islamic law) in the NWFP's Swat Valley. The ceasefire did not last and, in May 2009, the government launched a major military offensive against Taliban positions in Swat. The fighting also spread to Buner, Shangla and Dir districts. Over 2 million people, mostly ethnic Pashtuns, fled the area. Religious minority Sikhs and Christians were also displaced but tended to travel beyond the temporary camps set up in the NWFP, MRG reported in its August 2009 briefing paper, *Pakistan: Minorities at Risk in the North-West*. There were reports that Pashtun displaced in other provinces were being discriminated against, through excessive demands for security documents based on a presumption that they were Taliban supporters. This was despite the fact that many local Pashtun communities had put up fierce resistance to the insurgents. By July 2009, the fighting had ceased and people were allowed to return home, but MRG warned that security guarantees were limited, particularly for minorities. Moreover, underlying

frustrations remained among Pashtun communities in the NWFP over lack of investment and land reform, issues that the Taliban has exploited.

In October 2009, the Pakistani government renewed its military offensive against Taliban strongholds, this time in South Waziristan, a Federally Administered Tribal Area (FATA) west and south-west of the NWFP provincial capital, Peshawar. South Waziristan is home to ethnic Pashtuns divided into tribes such as Waziris, Burkis and Mahsuds. Over 300,000 people were displaced as a result of the fighting, UN agencies reported. In December, the government declared the campaign over, saying that much of the Taliban's military infrastructure had been destroyed. A day later, media reports stated that the prime minister retracted his comments and said that the campaign was ongoing and may extend into North Waziristan. At the end of 2009, the UN High Commission for Refugees (UNHCR) reported that 280,000 people from South Waziristan remained displaced.

The Pakistani province of Balochistan, which is home to the Baloch minority as well as to Pashtuns, is currently one of the most explosive parts of the country. In February 2009, the head of UNHCR's office in the provincial capital Quetta, John Solecki, was kidnapped by the Balochistan Liberation United Front. Solecki's driver Syed Hashim was killed in the incident. According to media reports, the separatist group made three demands to the Pakistani government, including the release of 141 women arrested by the Pakistani government and the investigation of more than 6,000 alleged missing persons. In April, Solecki was released, and in a subsequent incident three Balochi elders were killed. The government claimed they were killed accidentally in a shoot-out, but the armed group insists that the government conducted the killings. People have been extra-judicially killed, arbitrarily arrested, detained, made to disappear and tortured by security forces in Balochistan, according to Asian and international human rights groups. The area has long been marginalized and, due to increasing poverty, Balochis are becoming dissatisfied and feel disenfranchised by the government. Moreover, given that Balochistan, and Quetta in particular, is an important base for the Taliban, there is a clear risk that civilians will be drawn into the conflict between it and the government.

Inter-ethnic violence broke out in Karachi in February 2009 between Mohajirs and Pashtuns,

during which at least 24 people were killed.

Mohajirs are descendants of Muslim refugees from India, who came to Pakistan after independence and partition in 1947. Though the attacks had an ethnic dimension, they were driven by political factors and linked to political parties. Armed paramilitary troops were sent out to patrol the streets and ensure security, preventing further clashes.

Pakistan's religious minorities continued to face a series of human rights violations and targeted attacks. The country's Christian population face increasing threats to their lives from the Pakistani Taliban, as well as other Muslim extremists, who demand that they convert to Islam. At village level, Christians are also vulnerable to arbitrary arrest and detention, as they have limited access to justice. In one incident, a church in Bannu, NWFP, was vandalized on 11 May 2009. The intruders burned Bibles as well as the altar, and smashed windows and fans. Christians were among those who were displaced by the fighting in Swat, although they mostly chose to go into the provincial capital Peshawar, rather than to the camps.

The violence faced by Christians was not limited to Pakistan's north-west. In August 2009, eight Christians were burnt alive by Muslim extremist groups in Gojra in Punjab province, during violent attacks over rumours that a Qur'an had been desecrated. In a subsequent report, the independent Human Rights Commission of Pakistan stated that the attacks were premeditated and that local officials had been aware of the threat. Following the attack, Prime Minister Yousuf Raza Gilani announced plans to review 'laws detrimental to religious harmony'. However, Pakistan's infamous blasphemy law (clauses 295-B and 295-C of the Penal Code) remains in place and is used as a basis for arresting and detaining members of religious minorities.

A church was burnt down in Punjab's Sialkot district in September 2009, again following rumours that a Qur'an had been desecrated. Also in September, a Christian man was found dead in a jail cell. The Pakistan Christian Congress called on judicial authorities to conduct a full and impartial investigation into the killing. Police said it was suicide, but local Christian clergy said they found torture marks on his body.

Sections of the Sikh community in Pakistan were harassed and faced economic difficulty over 'jizya', a religious tax imposed by the Taliban in areas

controlled by them. The targeting of Sikhs was particularly acute in the Orakzai FATA, MRG's own research found. Taliban demanded *jizya* from 40 Sikh families living there; they also seized a member of the Sikh community and demanded a ransom. He was released after the Sikh community paid half the amount, before fleeing the area. In the process, the Taliban destroyed 11 Sikh homes.

Pakistan's Shia minority was also targeted during the course of 2009. In February, an explosion at a procession to mark the death of Shia religious leader Imam Hussain in Dera Ismail Khan, NWFP, killed 15 people and injured dozens. Later in the month, at least 25 people were killed and over 150 injured, also in Dera Ismail Khan, at the funeral of a local Shia leader who had been killed by militants the day before. In April, in Chakwal, 22 people were killed and 30 injured in another suicide bombing targeting a Shia religious gathering.

Incidents of forced conversion continued to be reported in Pakistan, often linked to gender-based violence. In April 2009, in Sindh province, a minority minister stated that 18 Hindu women had been forced to convert to Islam. A month later, a Christian woman was abducted, raped and forced to convert to Islam, according to the 2009 USCIRF report.

Unidentified gunmen shot and wounded Pakistan's Religious Affairs Minister, Hamid Saeed Kazmi, in Karachi in September. Kazmi, a cleric and vocal opponent of the Taliban, belongs to the Bareilvi sect – moderate adherents of Sufism.

## Sri Lanka

The year 2009 will undoubtedly go down as a pivotal one in post-independent Sri Lankan history, as it saw the end of the country's 30-year war. Fighting between government forces and the Tamil Tiger (LTTE) rebels reached a climax in the early part of 2009, as the government took over large areas of land that had been under rebel control. By February, the LTTE was cornered in a tiny area of land in north-eastern Sri Lanka, where they were essentially holding over 200,000 ethnic Tamil civilians hostage. Despite the concentration of such a large number of civilians in the conflict zone, the Sri Lankan military continued to press on. Between February and May 2009, daily reports emerged in international media of dozens of civilian killings. In March, the UN High Commissioner for Human Rights accused both sides of committing war crimes.

The Sri Lankan government clamped down on media coverage, and media and local and international NGOs were restricted from entering the war-torn areas, making it difficult to verify information. The government maintained that only some 75,000 people were caught up in the fighting and vigorously denied reports that civilians were being killed. According to MRG's December 2009 briefing, *Six Months On: No Respite and Little Hope for Minorities in Sri Lanka*, the Sri Lankan military unilaterally declared a no-fire zone, and asked civilians to leave LTTE-controlled areas and come to the zone, assuring them of their safety. However, beginning on 7 April 2009, the military shelled the zone, killing hundreds of civilians, including children.

The Sri Lankan President Mahinda Rajapakse declared that the conflict had ended on 19 May 2009, following the killing of the LTTE's senior leadership, including its leader Vellupillai Prabhakaran. In most parts of the country, people thronged the streets, jubilant and celebrating the end to a conflict that had claimed more than 70,000 lives. In the north of the country, however, the situation for ethnic Tamils was alarming. International media reported that over 280,000 people, who had been trapped by the fighting for months without food and who were traumatized by the violence, had begun pouring into displaced camps. The displaced were held in makeshift closed camps that were severely overcrowded and lacking facilities. Food, water, shelter and sanitation were huge problems. Families were separated. Local and international NGOs and the media were given very limited access. The UN and the International Committee of the Red Cross (ICRC) also faced severe restrictions. There were reports of abductions, kidnappings, arbitrary arrests and torture from within the camps. Some 10,000 people were detained as suspected LTTE cadres, local NGOs reported.

Six months after the end of the conflict, the government had begun a hasty return and resettlement process. Nearly half of those housed in Menik farm camp were allowed to return to their areas of origin. MRG and other international human rights groups argued that the process did not meet international standards. The government had not guaranteed adequate security for the returnees, nor had they ensured that facilities such as schools, hospitals and transport would be in place. In November 2009, the government announced that it was opening up

the camps, granting freedom of movement to the remaining displaced persons. The entire issue of displacement had been dealt with haphazardly by the government. By year's end, there remained close to 300,000 internally displaced, including about 100,000 members of the Muslim minority.

Despite the end of the conflict, the situation for minorities remained uncertain. During the second half of 2009, the government did not offer, nor hint at, any minority rights guarantees. More specifically, there was very little discussion of a political autonomy package for minorities. Accountability, both generally concerning human rights violations in Sri Lanka and more specifically relating to the last few months of fighting, remained a considerable problem. There was a pervasive climate of impunity in the country, where human rights violations went ignored and unpunished.

The general human rights situation in Sri Lanka remained poor during 2009, and those most affected were generally from minority communities. Media freedom hit a new low, and there were several attacks on journalists through the course of 2009, including the killing of high-profile editor Lasantha Wickrematunga and the imprisonment during most of the year of Tamil journalist J.S. Tissanayagam. There was also a clamp-down on work by NGOs, particularly human rights and aid agencies, as well as threats and intimidation directed at those working in these organizations.

Muslims make up 8 per cent of the Sri Lankan population. The government did not make clear its plans to resettle Muslim displaced who have been living in camps for nearly 20 years. Some Muslims began to return to their homes during 2009, but they received no assistance from the government, Muslim NGOs reported. The community also feared that they would be neglected in plans to redevelop areas affected by the conflict.

During the last stages of fighting, both Hindu and Christian places of religious worship were destroyed in shelling and artillery attacks by both sides, according to local human rights activists who cannot be named for security reasons. In January 2009, some 17 civilians were killed and 39 injured in the bombing and shelling by the Sri Lankan army of the American Ceylon Mission church in Suthanthirapuram. Six Christian priests, who chose to remain with the trapped civilians till the very end, were arbitrarily held in detention for months

without charges. Shantha Fernando, a Sinhalese Christian, was arrested by Sri Lankan police in March 2009 and handed over to the Terrorist Investigation Department, as he was on his way to India for a World Council of Churches meeting. Fernando, who is Executive Secretary of the Justice and Peace Commission of the National Christian Council of Sri Lanka, was held without charge under emergency regulations. He was released later on bail, but a case against him is pending in the local courts.

In the past few years, there has been a rise in Sinhala Buddhist nationalism that is affecting minorities. Christians and Muslims have borne the brunt of it. In 2009, there were sporadic incidents where Christian churches or religious leaders were attacked by such extremist groups, local minority groups have told MRG. Muslims have also been targeted by such groups. Muslim religious practices that have been part of Sri Lankan culture for centuries are now increasingly criticized. Objections are often aired in Sri Lankan media by Buddhist groups over the 'azan' or the muezzin's call to prayer and other religious practices, such as the slaughtering of animals for Eidh al-Adha, the Muslim festival of sacrifice.

The year also saw an increase in intra-religious conflicts among both Christians and Muslims. For Muslims, the conflict is mainly between radical groups inspired by the Saudi Arabian Wahhabi movement and the more traditional Sufi groups. In July 2009, a police curfew had to be imposed as one person was shot dead and several injured in rioting between the two sides in the southern town of Beruwala. There have also been some violent incidents between Catholics and evangelicals in the Christian community.

## South East Asia

Jared Ferrie

The beginning of 2009 saw the plight of Rohingya people gain media attention throughout the world, setting the tone for a year during which South East Asian nations would repeatedly fail to honour international obligations

to protect ethnic and religious minorities. A group of Rohingya, a Muslim ethnic group facing severe repression in Burma, found no respite after fleeing by sea to Thailand. Evidence came to light that Thai soldiers allegedly bound the refugees' hands behind their backs and set them adrift once again in motorless boats. Thailand's government promised an investigation. At the end of 2009, we were still waiting for the results of that probe, which may or may not have taken place. As Rohingya continued to risk their lives to escape Burma, the military government scaled up attacks against other minorities, causing wave after wave of refugees to flee into Thailand and China.

A harsh reception was also given to asylum-seekers and refugees from other countries. Despite protests from the international community, Thailand forcibly deported more than 4,000 Hmong to Laos, which has a history of repression against the indigenous people that, according to human rights groups, continues to this day. The deportation was a violation of international law. Some of the deportees had been given refugee status because of their legitimate fears of persecution in Laos, while the Thai government prevented UN officials from determining the status of most of the rest. In neighbouring Cambodia, officials also chose to ignore their obligations under international law by deporting to China 20 Uighurs, a Muslim Turkic minority from Xinjiang province, who sought asylum after witnessing the rioting that broke out in their home province on 5 July 2009 and lasted several days. China asked for them back and Cambodia acquiesced, despite the international outcry over the fact that China has been known to detain, torture and execute Uighurs accused of anti-state activities. It was not lost on observers that Cambodia flouted its international obligations by deporting them two days before signing 14 economic agreements totalling \$1.2 billion with China on 21 December 2009.

Tensions between and within religious communities also flared up in South East Asia in 2009, with governments failing to protect religious minorities and in some cases attacking them outright. In the Philippines, armed Islamist groups and security forces battled, displacing civilians, while Christian and other vigilante groups proliferated, some backed by the government. Hard-line Islamist groups in Indonesia attacked minority Muslims whom they accused of heresy, while the federal government allowed the rul-

ing party in Aceh to organize a morality police force, which began harassing those who did not conform to its strict interpretation of Islamic dress code and behaviour. In Malaysia, the government continued to allow Islamic courts to restrict religious freedom by erecting legal barriers against those wanting to convert to other religions. Freedom of speech advocates scored a victory on 31 December when the Federal Court ruled, against the government's wishes, that Christian publications could use the word 'Allah'. But opponents reacted to the ruling by burning churches, setting fire to seven between 8 and 10 January 2010. One church was extensively damaged, but no injuries were reported. In Vietnam, the ruling Communist Party began cracking down on non-state-sanctioned religious groups in 2009, after allowing more religious freedom during preceding years. In one of the more severe incidents, police and thugs attacked a Buddhist centre headed by Thich Nhat Hanh, one of the world's best-known monks and peace activists.

### Burma

As the ruling military government prepared the ground for elections in 2010, it retained its grip on its citizens. Critics such as Mark Farmaner of the Burma Campaign UK, a pro-democracy NGO, predicted that the elections would be strictly controlled and/or fraudulent, as the military regime is unlikely to concede power. Indeed, while three state-run newspapers ran a commentary urging ethnic minorities to take part in elections, Burma's leader, Senior General Than Shwe, warned soon afterwards that voters should be sure to 'make correct choices', according to United Press International, the BBC and other news agencies. The last election took place in 1990, when the electorate overwhelmingly voted for the National League for Democracy, the opposition party led by Aung San Suu Kyi. The regime put her under house-arrest where she remains, one of more than 2,000 political prisoners. The US-based NGO Freedom House, in its May 2009 report on the world's most repressive societies, which measures political rights and civil liberties, judged Burma to be one of eight countries with the worst human rights records in the world.

Some interpreted the regime's decision to hold elections as a sign that it is willing to take incremental steps toward allowing more political freedom, although such reasoning may have been rooted in exasperation. Hillary Clinton said on 18

### Special report

## As China flexes economic muscle in South East Asia, minorities get squeezed

Until the close of 2009, Cambodia was building up a reputation as a nation that had committed to developing a system of protecting the rights of refugees. Having emerged from one of the worst mass murders of the twentieth century, many Cambodians became direct beneficiaries of international refugee protection when they fled the bloody Khmer Rouge regime. It is one of only two South East Asian countries to have signed the 1951 UN Convention relating to the Status of Refugees (the Philippines is the other), and the UNHCR had recently cut staff in Cambodia as the government created its own office responsible for determining the status of asylum-seekers.

But the UN moved too soon. In December 2009, the Chinese government stepped into the picture, requesting the return of 22 Uighurs who had requested asylum after leaving China. Beijing was seeking people whom it claimed had been involved in the deadly rioting in the provincial capital, Urumqi, in July 2009. China is known to have a broad definition of guilt when it comes

February 2009, during her first trip to the region as US Secretary of State, 'Clearly, the path we have taken in imposing sanctions hasn't influenced the Burmese *junta*,' adding that Burma's neighbours' strategy of 'reaching out and trying to engage them has not influenced them either'. The administration of US President Barack Obama, perhaps in the absence of any viable options, tentatively

to those it suspects of anti-state activities – such as providing photos of police brutality to international media – and its courts have proven to be quite free with handing down death sentences to dissidents. So it was a great disappointment to see Cambodia deport the Uighurs in a blatant violation of its obligations under international law, which prohibits sending refugees back to a country where they may face persecution. Christophe Peschoux, representative of the UN Office of the High Commissioner for Human Rights in Cambodia, stated that:

*'This deportation is all the more disturbing in a country that has known massive persecution during the wars and during the Khmer Rouge regime, and which knows all too well the price and value of refugee protection. Thousands of Cambodians have had their lives saved thanks to the international refugee protection system, including many leaders of this country, past and present.'*

One problem for the Cambodian government, however, was that a request from the country's largest investor is hard to ignore. China has poured more than US \$1 billion in foreign direct investment into Cambodia, according to Reuters news agency. The group deportation took place on 19 December 2009, one day before Chinese Vice-President Xi Jinping was due to arrive to oversee the signing on 21 December of 14 economic agreements with China, financing projects ranging from infrastructure construction to temple restoration and buying office furniture for ministries. Although Cambodian officials denied any link between the deportation and the economic agreements, most observers thought this disingenuous. At a press conference after the signing ceremony, Cambodian government spokesman Phay Sipphan said Xi thanked Cambodia for returning the Uighurs,

began to engage Burma's government in 2009. In November, US Assistant Secretary of State Kurt Campbell travelled to Burma with his deputy Scot Marcel, the first diplomatic trip by US officials to the country in 14 years. The diplomats met with government officials as well as representatives from minority groups, including Arakan, Chin, Kachin, Mon and Shan. The United States urged Burma's

while Cambodian Prime Minister Hun Sen praised cooperation between the two countries on 'trans-border crime', including human trafficking and terrorism. It was clear that Cambodia had scuttled its scruples in the face of China's economic might – a scenario likely to be playing out in developing countries throughout the world where China has offered investment with no strings attached on human rights. In this case, the rights of minority Uighurs were crushed under the political and economic weight of an emerging superpower.

Before the deportation, Amy Reger, of the Uighur-American Association, a US-based NGO, said:

*'The Uighurs who have sought refuge in Cambodia have effectively been labelled as criminals by the Chinese government without having been tried in a court of law. The Uighur-American Association is therefore extremely concerned that if they are repatriated to China by Cambodian authorities, Cambodia will be sending these Uighurs to a terrible fate – possibly execution, and likely torture.'*

She added that, over the past few years, Uighur asylum-seekers have been sent back to China from various countries and subjected to ill-treatment or worse. In 2003, for example, Shaheer Ali was executed in China after being deported from Nepal, where UNHCR had granted him refugee status.

There were indications that Cambodia initially supported the asylum bid by the Uighurs, some of whom had arrived soon after the July riots. Speaking on condition of anonymity, multiple sources said that UNHCR officials had been asked by the Cambodian government to assist with the review process. But the asylum-seekers themselves

government to bring into the political process ethnic minorities, who make up more than 40 per cent of the population and have been subjected to violence and discrimination. On 10 December 2009, more than 400 lawmakers from 29 countries signed a letter sent to the UN Security Council, asking it to investigate the Burmese government for perpetrating crimes against humanity. Some scholars have sug-

were worried. Several complained that they were being watched by Chinese agents, and the Uighurs were shifted between safe houses in Phnom Penh. During one of these shifts, two of them went missing, perhaps anticipating the fate that would befall the remaining 20.

The controversy heated up as the date grew closer for the visit of the Chinese delegation. The Cambodian Foreign Affairs Ministry spokesperson had been the contact for reporters, but that changed less than a week before Xi's visit when reporters' questions began to be referred to the Ministry of Interior. That shift coincided with the Uighurs being taken by armed Cambodian officers from the safe houses to one location where some of them were reportedly shackled. The official rhetoric changed as well, beginning to mirror statements coming out of the Chinese Foreign Ministry in Beijing, which was claiming that the Uighurs were criminals without providing any evidence. In an interview, Minister of Interior spokesman Khieu Sopheak claimed the Uighurs were 'terrorists' and 'criminals'. The group included a woman with two small children. Khieu said the group had been put aboard a 9.30 p.m. flight on a Chinese plane that took off from the military airport.

The day after the Uighurs were deported, a Chinese court sentenced five people to death for what it said was their role in the July riots, bringing the number of executions related to the riots to at least 22. It is not known whether those five included members of the group who failed to obtain asylum in Cambodia. UNHCR requests for access to them in China were denied, and no statements have been issued about their fate. ■

gested that charges of genocide could be laid against Burma's military rulers, who have carried out campaigns of ethnic cleansing, religious persecution and crimes against humanity against minority groups.

Many ethnic minorities have their own armed resistance movements, and there are about 40 armed groups in Burma. The government claims to have

negotiated ceasefire agreements with 17 armed groups, including the Kachin Independence Army, the United Wa State Army and the Shan State Army, according to the UK Foreign and Commonwealth Office. In 2009, some of those agreements began to break down, possibly as a result of an attempt by the military leadership to consolidate power before the elections. During the autumn, the Burmese military clashed with the Kokang militia, forcing more than 30,000 refugees to flee into China, according to UNHCR. Militia members who crossed the border reported that government soldiers attacked militias in an attempt to dislodge local leaders, according to a report by Radio Free Asia. Chatham House, a UK-based research organization, said that the Burmese military also tried to force ethnic militia groups, including Kachin and Wa, into becoming a border guard force, but they resisted such attempts. Across the border in Thailand, UNHCR reported 2,000 Karen arriving at refugee camps after fleeing a military build-up as government troops and their allies in the Democratic Karen Buddhist Army closed in on Karen National Union bases. In addition to the fighting, refugees told IRIN, the UN-funded news service, that they were afraid of being forced to work as labourers and porters for the army. The summer of 2009 also saw Burmese troops displace more than 10,000 Shan civilians, according to a 14 August report by Human Rights Watch (HRW). Quoting 'credible reports by Shan human rights groups', HRW said that seven army battalions were deployed to central Shan state and troops attacked 39 villages, burning down more than 500 houses between 27 July and 1 August. The HRW report accused the government of forcibly relocating civilians as part of an intensified counter-insurgency campaign against the Shan State Army-South, which was ambushing government troops regularly, including a 15 July attack that killed 11 soldiers. The UN Office on Drugs and Crime noted a 10 per cent increase in opium production in 2009 as ethnic militias, such as those connected to Wa and Kachin, reportedly used drug money to buy arms to resist the government.

In a country where 90 per cent of citizens are Buddhist, religious minorities also faced persecution during 2009. For example, Christians make up more than 80 per cent of those living in Chin state, where they have been subjected to discrimination that has forced thousands to flee to Malaysia and India, according to a 7 December report by IRIN. Chin is

Burma's poorest state, with 70 per cent of its population living below the poverty line, compared with the national average of about 33 per cent, according to IRIN. Chin people, who belong to a number of distinct tribes, have been recruited as forced labour, arrested arbitrarily and tortured, according to HRW. The forced labour is particularly problematic as it takes farmers away from their fields. A May 2009 survey by the World Food Programme (WFP) found that most residents were unable to afford food, health care or education and had to take out loans, incurring personal debt to pay for basic services.

Christians, who comprise 4 per cent of Burma's population, were targeted in other areas of the country as well. In January 2009, officials closed down at least eight house churches in Rangoon, while other churches reported having to request permission to hold religious ceremonies at least two months in advance, according to the 2009 *International Religious Freedom Report* (IRFR 2009) issued by the US State Department.

About 4 per cent of Burma's citizens are Muslim and they continued to suffer repression at the hands of the state in 2009. For example, the Burmese government refuses to grant citizenship to Rohingya, rendering them a stateless Muslim ethnic minority who have also been subjected to forced labour and land confiscation, among other abuses. The Rohingya have long been fleeing Burma, but their plight burst into the headlines in early 2009 when photos (some taken by tourists) showed refugees being detained by Thai authorities on beaches after they were captured at sea, as documented in a May report by HRW. Given the harsh conditions they live under, it is not surprising that so many Rohingya attempt to escape Burma. The regime's attitude was summed up in a February 2009 letter, quoted by AFP on 11 February, from the Burmese Consul-General in Hong Kong to his fellow heads of mission, 'In reality, Rohingya are neither "Myanmar People" nor Myanmar's ethnic group. You will see in the photos that their complexion is "dark brown". The complexion of Myanmar people is fair and soft, good-looking as well. ... They are ugly as ogres.' In 2009, Burma began constructing a concrete and barbed-wire fence along its border with Bangladesh. It said the fence was to prevent smuggling, but human rights groups argued that its true purpose was to prevent more than 200,000 Rohingya refugees from returning.

## Cambodia

The ruling Cambodia People's Party (CPP) continued to consolidate its power in 2009, filing a spate of lawsuits against opposition politicians, civil society activists and journalists. Human rights groups, and even the United States embassy, pointed to corruption and political interference in the courts, and accused the CPP of attempting to create a one-party state by muzzling opposition voices, according to media reports, including a 23 July article in *The National* newspaper. Mu Sochua, an opposition parliamentarian who lost a defamation lawsuit filed against her by Prime Minister Hun Sen, said in an interview that such tactics had a dual purpose: the lawsuits intimidated and silenced opposition voices while distracting public attention from issues such as a declining economy – particularly massive layoffs in the garment manufacturing sector that mainly affected women – and land seizures that continued to take place throughout the country.

Forced evictions affected Cambodia's population as a whole (the vast majority are ethnic Khmer and Buddhist), but indigenous peoples, who are mainly animist, were targeted in areas where their traditional lands were slated for development by resource companies (see case study: 'If we lose the land we lose everything'). The government continued to ignore a 2001 law that grants ownership to people living on public land for five years or more, and makes special provisions for collective land rights for indigenous peoples. On 4 September 2009, the government pulled out of a World Bank-funded programme aimed at sorting out land titles. In a 7 September speech, widely quoted in the media, Prime Minister Hun Sen said that cooperating with the World Bank on the programme, 'was difficult because it was complicated and had too many conditions'. Although the programme had issued more than 1.1 million land titles in rural areas since 2002, David Pred, founder of NGO Bridges Across Borders, said in an interview that many titles exist only on paper and the process had failed to halt illegal evictions. He accused donors of refusing to use their leverage to stand up to corrupt Cambodian officials. In a 13 July 2009 report, the World Bank itself noted 'a particular disconnect between institutional, legal and policy achievements and insecurity of land tenure for the poor, especially in urban areas, and indigenous peoples'.

On 29 December 2009, the CPP-controlled

National Assembly passed a controversial law allowing the government to expropriate land for development, despite complaints by human rights groups and opposition members that the vague language of the law would allow it to be used by government officials to force people from their land illegally. Prime Minister Hun Sen announced that Cambodia granted a licence on 23 December to a Vietnamese company to search for bauxite deposits in Mondulokiri province. No information has been released about specific sites for exploration, but Mondulokiri is home to several indigenous communities who could be threatened if bauxite deposits are found on their traditional lands.

While Buddhism is the state religion, Cambodia's Constitution provides for freedom of religion. Laws and policies 'contributed to the generally free practice of religion', according to the IRFR 2009. Freedom House, however, pointed to discrimination against ethnic Cham Muslims in its 2009 *Freedom in the World* report. 'The Chams have come under new suspicion from the ethnic Khmer majority in the wake of Islamic terrorist attacks in Southeast Asia and elsewhere', according to the report, which also refers to discrimination against Cambodia's ethnic Vietnamese minority. Followers of the nineteenth-century Muslim leader Imam San, a small sect within the Cham minority, said they experienced discrimination from fellow Chams, who claim they are not true Muslims, according to an article in the *Asia Times*, an online news source. The sect's 37,000 members blend Islamic practices with animist ceremonies, and they pray once a week rather than five times a day.

In December 2009, the UN-backed tribunal that is trying former leaders of the Khmer Rouge officially acknowledged atrocities committed against the Cham and Vietnamese minorities as genocide. The Extraordinary Chambers of the Courts of Cambodia, which is a hybrid court combining Cambodian and international law, handed down genocide charges against four former leaders of the Khmer Rouge regime who were awaiting trial. In an interview, Youk Chhang, who heads the Documentation Centre of Cambodia, an NGO, welcomed the charges and pointed to massacres of both minority groups, including one incident where the Khmer Rouge wiped out an entire community of Cham who lived on an island. For their part, two members of a Cham delegation who travelled to the court to take part in a

forum for 'civil parties' (victims given a voice in the trials by lawyers representing them as groups) said in interviews that they supported the court's decision. Mok Sitha, 69, who said she lost 10 family members under the Khmer Rouge, said, 'I agree with the court. They should charge them more.' Tolosh Kor Seum, 41, also said he agreed that the Khmer Rouge leaders should be charged with genocide. He added that he was taking part in the trial as a civil party because he wanted to contribute to the historical record to pass along the next generation. Tolosh said, 'I want to let them know how many Muslim people have been killed and how they have been treated during the Khmer Rouge.'

The year ended with the widely condemned deportation to China of 20 Uighurs who had applied for asylum in Cambodia after fleeing China following the riots in Xinjiang province in July 2009. The UN, the US embassy, and organizations including Amnesty International (AI) and HRW issued statements urging Cambodia not to deport the asylum-seekers and condemning the move when it did. Human rights groups accused the government of violating international law, pointing out that Cambodia had ratified the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol. Cambodia has thus committed itself to the principle of *non-refoulement*, whereby states are barred from returning a refugee or an asylum-seeker to a country where that person faces a serious risk of persecution. China has been accused of detaining, torturing and executing Uighur asylum-seekers upon return, even in cases where the individual had gained refugee status.

## Indonesia

Persecution of religious minorities continued throughout 2009. Followers of the Ahmaddiya religious group faced attacks from Islamist groups that consider them heretics. On 11 December 2009, for example, a group of people claiming to be members of the Islamic Defenders Front (FPI) raided a house in Jakarta where Ahmadiis had held Friday prayers, according to news reports compiled by the Wahid Institute, a Jakarta-based non-profit organization. Police took six Ahmadiis to the police station in order to prevent them from being physically harmed, a police chief said. The deputy head of the FPI Jakarta chapter later said that his group had initiated the raid and demanded that police detain the Ahmadiis

# 'If we lose the land, we lose everything'

**Neth Prak, 28, is a student of sociology and anthropology at the Royal University of Phnom Penh. He is from the Bunong indigenous group in Cambodia. He speaks to Jared Ferrie about the terrible impact that industrial development is having on his people and their spiritual traditions.**

Bunong number about 20,000 and live in the eastern Cambodian province of Mondulokiri. While Cambodia's population is overwhelmingly Khmer and Buddhist, Bunong people practise their own form of spirituality that is intrinsically connected to their environment.

*'We can say they are animists, because we believe in spirits in nature: the mountain, tree, the waters, the sky, the rice spirits. Elephants, buffalo – all these animals have spirits and almost a similar life to the humans.'*

*'We practise agriculture, but when we finish, for example in June or at the beginning of July, we go for hunting for half a month and then we start work (farming) again. We harvest rice and prepare for the next crop. Then in May we do honey hunting, collecting honey in the forest. At this time we are free from agriculture and we go in the forest, just go for a walk, hunting and fishing and collecting honey. Some people they go for a week or two weeks in the forest, just walking with the family.'*

But their way of life is under threat from a new rubber operation that has already displaced some Bunong and destroyed sacred forests and cemeteries. Critics say the joint venture by Socfin, a French company, and its Cambodian

partner KCD, could be illegal. They question whether the companies carried out the required Environmental and Social Impact Assessment before starting operations. They also point to a 2001 Cambodian land law that includes special provisions for collective land rights for indigenous peoples that appears to have been ignored.

Prak describes the impact of the activities of the rubber company on Bunong people, saying:

*'... it is a very complicated, hard problem for Bunong people. They are afraid to lose their land, but land has been lost, and this has put people in a very bad situation. It's not only [agricultural] land, it's been cemeteries and the places they go for hunting, and the places they go to worship, the sacred forests. The company, they don't care because they have a license from the government.'*

If the company continues to clear land for rubber plantations, Prak adds that,

*'... it will have a big impact, because if all the land is taken up by rubber [trees], there will not be any space to grow rice. For Bunong, rice is very important to the culture. Most of the ceremonies are related to the rice. If they don't have any land to grow their rice, they will not have any ceremonies. It will be a big loss for the culture. If we lose the land we lose everything.'*

*'Maybe we will get jobs and become rich, but I don't think so. I think Bunong will be the losers. And for the old [ways of] living, the culture, it will be lost. Myself, as a Bunong, I'm really concerned about that. That's why I came to study sociology and anthropology. I hope that I can document that, and I hope to collect the knowledge to keep for the next generation.'* ■

*Edited by Rahnuma Hassan*

for violating a government decree. A decree handed down in June 2008 does not ban Ahmaddiya outright, but it prevents Ahmadis, who number about 200,000 in Indonesia, from spreading their beliefs and orders them to embrace 'mainstream Islam', according to the Wahid Institute. Local governments issued bans against Ahmaddiya and other religious groups, including al-Qiyadah al-Islamiya, according to IRFR 2009. Twelve Ahmaddiya mosques were destroyed in 2009, including one in South Jakarta that was set on fire on 2 June.

In the province of Aceh, the Aceh Party gained a majority in the 9 April 2009 parliamentary elections. It then proceeded to implement elements of Sharia law that violate the human rights of women and members of non-Muslim minorities, according to local human rights groups. The party is the political wing of the Free Aceh Movement, which fought for independence before signing a peace agreement. During the run-up to elections, at least five Aceh Party leaders were killed, its offices were bombed, and Indonesian soldiers removed some of the party's flags, according to HRW. After winning the election, the Aceh Party formed a 'Sharia patrol unit' of 800 officers, which is tasked with forcing residents to adhere to the party's strict version of Islam.

Indonesia's Christian minority also continued to face attacks and discrimination. In January 2009, 10 members of Jemaah Islamiyah, a militant Islamic group, were tried for killing a Christian school teacher, according to IRFR 2009. In late October, at least 17 students from the Setia Christian College in Jakarta went on a hunger strike to protest the forced eviction of 900 students from their campus accommodation, an incident documented by AI. The students were housed in a building that was owned by the city, but was then turned over to a private company after a legal dispute. The previous year saw the evacuation of 1,400 students from the campus after attacks by villagers and others allegedly linked to the FPI, according to AI. Twelve churches were attacked and destroyed during 2009, according to IRFR 2009.

In resource-rich West Papua, authorities continued to clamp down, sometimes violently, on indigenous peoples' activists peacefully seeking greater autonomy or independence. Members of Papuan indigenous communities, who number 800,000, have accused the central government of exploit-

ing the province's natural resources, which include mineral deposits and forests, without compensating them. They have also raised concerns about non-Papuan migration into the province. On 29 January 2009, police in Nabire fired rubber bullets and injured at least five people who were demonstrating for local elections to be held, according to AI, which reported that police also beat demonstrators with rattan sticks and rifle butts. In January 2009, Papua's High Court extended the sentences of 11 protesters who were jailed after raising the banned Morning Star flag, a symbol of independence, in March 2008. The protesters were initially sentenced to eight months' imprisonment, but upon appeal the sentences were extended to three and a half years for one protester and three years for the others. On 6 April, police opened fire on students peacefully protesting the elections and calling on the UN to organize a referendum to determine the future of Papua. Four demonstrators were seriously injured, including a 10-year-old boy. Three days earlier, police arrested 20 student demonstrators and charged three with treason and incitement, charges that carry a maximum penalty of life imprisonment. These incidents were documented by HRW. In June 2009, HRW released a report documenting abuses by the Indonesian Special Forces, Kopassus, in West Papua. Drawing on interviews collected from victims in 2008 and 2009, HRW said Kopassus members 'arrest Papuans without legal authority, and beat and mistreat those they take back to their barracks'. The report noted that Australia has resumed regular training of Kopassus soldiers and pointed to statements by US Secretary of State Hillary Clinton that suggest that the US may also decide to train Indonesian Special Forces. On 11 August 2009, AI released a statement decrying the failure to resolve the killing of Papuan protester Opinus Tabuni one year earlier. According to AI, the unsolved murder 'highlights the continued lack of accountability in cases involving the lethal use of firearms by law enforcement officials'.

In 2009, Indonesia set up a legal framework to implement a UN-backed programme to reduce greenhouse gas emissions through market incentives. After China and the US, Indonesia is the world's largest emitter of greenhouse gases, mostly due to rampant deforestation, according to the World Bank. Logging – both legal and illegal – as well as mining and conversion of forested areas to palm

oil plantations, are responsible for most of the massive deforestation, which threatens not only the environment, but also indigenous communities. The Reducing Emissions from Deforestation and Forest Degradation (REDD) programme would see big polluters buying carbon credits, generating financial resources that would be used to pay for reforestation or forest preservation. Under the REDD programme, the Indonesian government plans to plant millions of hectares of new forest annually with financing from international donors and the private sector. Some indigenous communities, including Oma'lung, a subgroup of Dayaks living in Borneo, have reportedly embraced the REDD programme as a path to preserving their homeland and culture, according to *Our World 2.0*, a publication by the United Nations University, which is a think-tank for the UN. Nevertheless, the Indonesian government must ensure proper and meaningful consultation with affected indigenous communities and ensure that no forced displacement occurs in conjunction with any REDD programme.

### Laos

A long-simmering debate about the fate of minority Hmong who fled Laos to seek asylum ended abruptly at the end of 2009. More than 4,000 Hmong were deported from camps in Thailand on 28 December, despite protests by human rights groups, the UN, and governments including the United States. Many worried that the deportees would face persecution in Laos, which has attacked members of the ethnic minority because many Hmong fought with the United States in the 1960s and 1970s against the communist Pathet Lao, who took over the country. The deportees included 158 Hmong who had been granted refugee status after UNHCR decided that they did indeed face the threat of persecution in their home country.

One day after the mass deportation, UNHCR asked for access to the deportees in Laos and offered to assist the Lao government in resettling them to a third country. In early January 2010, UNHCR regional spokesperson Kitty McKinsey said in an interview, 'We haven't received access or even a formal response.' Advocates in the US, such as the Center for Public Policy Analysis, a Washington DC-based research group, said Lao authorities took away members of the group who had been involved in fighting the Pathet Lao. Those reports were based

on telephone conversations between Hmong being held in camps in Laos after being deported from Thailand and their relatives living in the US. Lao authorities told Radio Free Asia that concerns about the welfare of the Hmong were groundless and that they would be resettled in villages constructed near the capital, Vientiane. The government did allow three members of the US Congress to visit one of the resettlement villages, 70 km outside of Vientiane. In a press conference afterwards, Congressman Eni Faleomavaega said, 'There is no indication of discrimination or harassment or mistreatment of the people in Phalak village.' However, it should be noted that the Lao government strictly controls information. As a result, it is difficult to obtain independent verification of apparent abuses.

The Laos Constitution officially allows for freedom of religion, but human rights groups say authorities, particularly at a local level, harass or ill-treat dissident Buddhists as well as Christian and animist groups. On 30 November 2009, UN Special Rapporteur on freedom of religion or belief Asma Jahangir released a statement after a visit to Laos, urging authorities to respect religious diversity. She noted that religious minorities have been economically and politically marginalized, as well as targeted specifically for their religious beliefs. In response, Lao authorities acknowledged such repression, but said instructions had been passed to lower-level officials that such incidents would no longer be tolerated.

Incidents of harassment or ill-treatment of minority Christians blighted Laos' human rights record in 2009. The US State Department Country Report 2009 noted that the situation for Christians varied from region to region. Decree 92 on Religious Practice defines the rules for religious practice and establishes the government as final arbiter. Local officials have used its terms to curtail minority religious practice, while not always understanding its provisions. There were reports throughout the year of local officials banning Christian worship, refusing permission to build churches or harassing worshippers. There were also reports of Christians being forced to renounce their faith.

As construction continued on dams along Laos' rivers in 2009, indigenous peoples continued to lose their livelihoods as they were displaced. In May, the NGO International Rivers (IR) visited the Theun-Hinboun Expansion Project, a dam under

construction in central Laos, and discovered that the Theun-Hinboun Power Company had violated a number of agreements it had signed in order to be allowed to operate. Among other violations, the company had failed to compensate villagers for their loss of assets and livelihoods, and failed to provide documentation of 'good faith negotiations' with indigenous communities that will be affected by the project. The dam will displace 4,186 indigenous people from the reservoir area and affect a further 51,441 people living downstream, as well as undermine food security for about 50,000 people, according to IR. The Lao power development plan will see 55 large dams built, of which seven are currently under construction.

## Malaysia

Despite campaign pledges by Prime Minister Najib Razak to address long-standing grievances among Malaysia's minorities, who staged demonstrations that were widely credited as a key to his predecessor's defeat, the government has implemented few reforms. Perhaps such failed promises added to the ethnic and religious tensions that plagued the country in 2009. Many minority activists resent policies that favour Malays, who account for half the population and are granted preferred status when it comes to education, jobs and status.

Religion is also a point of contention for minorities, and the courts are often called on to settle issues that challenge Islam's dominance. Islam is the state religion (60 per cent of Malaysians are Muslim), but Article 7 of the Constitution states that 'other religions may be practised in peace and harmony'. A 31 December 2009 court ruling was a telling example of how such tensions play out in the social arena. The court overturned the government's March ban on the use of the word 'Allah' in Christian publications in the Malay language; the government appealed the decision. Protesters firebombed several churches soon afterwards. In October, the government seized and destroyed 20,000 Bibles in which the word 'God' had been replaced by 'Allah', a common practice in Christian texts written in Malay. The government said that switching the words could cause confusion and lead to Muslims to convert to Christianity, according to a report by CNN.

Several other court cases brought minority religious rights into focus in 2009, as they were launched against actions taken by the government

that infringed upon religious freedom. Shanmuga Kanesalingam, legal adviser to the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism, said in an interview, 'A significant minority of non-Muslims are still unlawfully being treated as Muslims, and are subjected to Islamic law. They cannot marry non-Muslims, and when they die their bodies will be taken away by the Islamic authorities and their non-Muslim families disinherited.' He pointed to two cases in particular in which he was involved. The 'body-snatching' case of Mohan Singh saw the Islamic authorities take possession of the deceased man's body in order to give it a Muslim burial. Singh was a Punjabi Sikh, but the authorities claimed he had converted to Islam in 1992. The law allows conversion to Islam but prohibits converting from Islam to any other religion. Singh's Sikh family rejected the claim, but they were rebuffed by the authorities. Kanesalingam noted of the family, 'They will also be disinherited.' He mentioned also the case of a Hindu woman whose husband had converted to Islam and was trying to force her to go to the Islamic Syariah court (the Malaysian Sharia courts) in order to divorce her and take possession of their children whom he wished to convert to Islam as well. Kanesalingam said, 'Government authorities and the civil courts show undue deference to such Syariah court orders. Much anticipated law reforms have been deferred pending the Syariah authorities' feedback.'

Indigenous communities, who comprise 11 per cent of the population, continued to face threats to their traditional way of life as mining, logging and hydroelectric dam construction threatened their environment. At the end of 2009, for example, the Bakun hydroelectric dam in Borneo was in the final stages of completion, with officials saying they would begin filling it with water in early 2010. Thousands of indigenous people have already been driven from their ancestral lands to make way for the dam, which will eventually flood an area of jungle the size of Singapore. Those affected include the Penan tribe, who number about 10,000, of whom about 400 are thought to be among the last nomadic hunter-gatherers left in the world. Twelve more dams are planned in Malaysian Borneo, according to a report by *The Independent*, a UK newspaper.

The year 2009 also saw a significant legal victory for indigenous peoples, as Malaysia's highest court,

the Federal Court, affirmed a ruling that grants them land rights. Advocates said the ruling could help indigenous peoples resist destruction wrought by oil and logging companies.

## The Philippines

Violence continued to plague the southern region of Mindanao, home to most of the country's minority Muslim community, after a breakdown in peace negotiations between the government and the Moro Islamic Liberation Front (MILF) the previous year. A ceasefire was declared on 29 July 2009, but fighting was ongoing in some areas. In May 2009, the National Disaster Coordinating Council reported that there were still 703,949 internally displaced persons (IDPs), most of whom were Muslim. Living conditions were poor in evacuation centres, which lacked sufficient food, water and sanitation. Diseases are common and some IDPs have died due to lack of medical attention. The military reportedly blocked relief supplies to IDPs, who were publicly labelled as an 'enemy reserve force' by Lt. Col. Jonathan Ponce, spokesman for the sixth infantry division, during a 30 June 2009 forum, according to the Asian Legal Resource Centre, an NGO.

Another armed group, Abbu Sayyaf, continued to mount attacks in 2009 and carried out kidnappings against civilians. The most publicized incident was the 15 January kidnapping on the island of Sulu of three representatives of the International Committee of the Red Cross. They were freed in April and October. On 10 and 11 April, Abbu Sayyaf members allegedly killed two farmers in Zamboanga City; the group claimed that the farmers were members of a Christian militia, according to IRFR 2009.

As a signatory to the UN International Convention on the Elimination of All Forms of Racial Discrimination, the Philippines came under review during 2009. In the 28 August 2009 report released by the committee overseeing the convention, committee members expressed concern that 'leaders of these communities continue to be victims of extrajudicial executions as well as of disappearances and detention and over reports indicating occupation of indigenous territories by the armed forces and armed groups'. The committee was also concerned about 'the effects of internal displacement as a consequence of armed conflict especially on indigenous peoples'. The newspaper *Davao Today* reported on 5 March that members of the

Lumad indigenous people in Mindanao were being forcibly recruited by the military to fight the New People's Army, a communist rebel group.

## Thailand

The year 2009 began with shocking photographs and video footage showing Thai officials allegedly mistreating Rohingya refugees, who had escaped neighbouring Burma by sea. The images were accompanied by stories of abuse, including allegations that Thai soldiers set refugees adrift in boats without engines. Reports in January 2009 indicated that as many as 200 Rohingya were missing, while 300 were known to have drowned. Boats full of refugees were found drifting in the Andaman Sea by the Indian Coast Guard. One survivor told IRIN, the UN news service, that Thai soldiers bound the hands of 412 refugees behind their backs, towed them out to sea and left them there. Another refugee, one of only 107 people to survive the ordeal, told IRIN, 'The food and water ran out within a few days. We were starving for nearly two weeks and feared we would never see dry land again.'

Chris Lewa, of the Arakan Rohingya National Organization, said in an interview that four boats containing at least some Rohingya refugees were found by Indian authorities in 2009, three of which had been set adrift by the Thai navy. The persons on board numbered 448 and included Bangladeshis as well as Rohingyas. At the end of 2009, Lewa said 224 Rohingyas remained in a prison in Port Blair in the Andaman Islands, which are administered by India. Seventy-nine Rohingya refugees remained in a detention centre in Bangkok. They were found on 19 August 2009 drifting in a boat with a broken engine and were picked up by the Thai navy. The refugees had first been caught by the Burmese navy, tortured and set adrift, according to Lewa. She said some of them had been burned and two of the refugees spent two months in the hospital recovering from the torture. Thai officials first put the refugees in a detention centre in Ranong, a province along the Andaman Sea, where conditions had been very poor. They were brought to Bangkok after human rights groups protested.

On 20 January 2009, the head of Thailand's army announced that the military would investigate the scandal, IRIN and other news agencies reported. Thailand said the probe would be led by the Internal Security Operations Command

(ISOC), which is the same army unit that allegedly perpetrated the abuses. The ISOC was set up during the Cold War to run anti-communist death squads, according to IRIN. Thailand refused offers from outside agencies, including UNHCR, to help with the investigation. A year later, no details had been released to the public and it is unclear whether the ISOC had carried out an internal investigation.

The year ended with the Thai authorities targeting another refugee minority. On 28 December, the military deported more than 4,000 Hmong asylum-seekers to Laos, despite protests by human rights groups who accused the Laos government of human rights violations. Military units in riot gear forced thousands at the Huay Nam Khao refugee camp onto buses and sent them back to Laos. The Thai military had prevented UNHCR officials from entering the Huay Nam Khao refugee camp to assess their refugee claims. In May 2009, the international medical relief NGO Médecins Sans Frontières (MSF), which was the primary group providing medical aid to the refugees, withdrew from the camp in protest at the strong-arm tactics by Thai authorities. In a statement, MSF said, 'We can no longer work in a camp where the military uses arbitrary imprisonment of influential leaders to pressure refugees into a "voluntary" return to Laos, and forces our patients to pass through military checkpoints to access our clinic.'

At a camp in Non Khai, 158 Hmong were also deported, despite UNHCR warnings that they were 'persons of concern' and could face persecution. The 158 who were detained in Non Khai had been granted refugee status. Kitty McKinsey, UNHCR's regional spokesperson, said in an interview, 'The fact that we gave them refugee status shows that they had a well-founded fear of persecution.' The governments of Australia, Canada, the Netherlands and the US had all volunteered to resettle the group, but the Thai government ignored the offers.

The Lao government has a history of animosity toward the Hmong because of their cooperation with the United States during its 'secret war' in Laos in the 1960s and 1970s. The US Central Intelligence Agency (CIA) recruited Hmong people in its fight against the communist Pathet Lao. Tens of thousands of Hmong fled after the US pulled out in 1975 and the Pathet Lao took over the country. The Hmong who were deported back to Laos on 28 December 2009 had arrived in Thailand in 2004,

claiming they were fleeing persecution.

Thailand is home to about 150,000 refugees, according to Refugees International (RI), many of whom are ethnic minorities who fled Burma to nine camps on the Thai side of the border. Aid workers and UNHCR officials at the Mae La camp reported during 2009 that women suffer from high levels of domestic and sexual abuse, a situation that is likely to be similar in other camps. About 13,000 refugees from the camps were resettled in 2009, while more than 43,000 were resettled in 11 countries between 2004 and 2008, according to the UN. In a September 2009 report, RI warned that more funding for refugee camps might be necessary in 2010 if the Burmese military continues its offensive against ethnic militias, causing more refugees to flee to Thailand.

In southern Thailand, the military continued to fight an ethnic Malay armed group, and the number of attacks by the latter increased in 2009 compared to 2008. Malay Muslims are a minority in Thailand as a whole, but a majority in the southern provinces bordering Malaysia. The International Crisis Group (ICG) released a report in December 2009 which stated:

*'Buddhist monks required military escorts and one was killed in a June bombing while another was injured; there were six car bombs during the first 11 months of the year, the highest number since 2004; by September 415 people were killed and 773 injured; most civilians who were attacked were those thought to be collaborating with the Thai authorities, especially teachers who, insurgents believe, are imposing Buddhist ideas on Malay Muslim students; by August nine educators had been killed; insurgents burnt down 11 schools in 2009.'*

Muslims too came under attack in southern Thailand during 2009. On 8 June, gunmen opened fire on dozens of Muslims praying at a mosque in Aipayae village, killing 10 people and injuring 12. Police issued warrants for a former paramilitary ranger and another man – both Buddhists. Police said they believed the attack was in retaliation for the killing of Buddhists by insurgents. A video posted online in January 2009 showed a Malay Muslim man being beaten by Thai soldiers. Human rights groups documented three cases of serious abuse against Malay Muslims by security forces in 2009, and many less violent cases, according to ICG. The

armed opposition group is thought to use terror tactics against fellow Muslims to keep them under control. On 12 March, for example, an insurgent shot and killed Laila Paaitae, a well known Muslim women's rights and peace activist who promoted coexistence between Malay Muslims and Thai Buddhists, HRW reported.

ICG accused the Thai government of failing to live up to promises to solve the conflict. In its December report, it said, 'The government has made little progress in addressing political grievances or alleviating the sense of injustice among Malay Muslims.' ICG recommended that the government take control of policy away from the military, including measures such as revoking martial law, which gives the military sweeping powers, as well as taking stronger measures to prosecute those responsible for attacks against Muslims, especially the 8 June attack on the mosque. ICG also recommended pursuing talks with the insurgents to explore options for a compromise, which could include 'a special administrative structure' for at least parts of southern Thailand.

## Vietnam

Political analysts and human rights organizations accused Vietnam of backtracking on freedom of expression, particularly religious freedom during 2009. The *Wall Street Journal* reported that as Vietnam was preparing to join the World Trade Organization in 2007, the government allowed greater freedom for religious groups. But in 2009 it changed tack, cracking down on religious leaders, human rights activists, journalists and bloggers. Some analysts saw this as an attempt by the government to stifle dissent and maintain Communist Party control in the wake of a bout of high inflation in 2008 and the global economic crisis in 2009. They expected repression to continue in the run-up to the 2011 party congress, which often heightens tensions between reformers and conservatives within the party, according to the *Wall Street Journal*.

In *Vietnam: Sharp Backsliding on Religious Freedom*, HRW focused on violent attacks on followers of Thich Nhat Hanh, one of the world's leading Buddhist monks and peace activists. At the Bat Nha monastery on 27 September 2009, the report recorded that, 'more than 100 thugs and undercover police officers armed with sticks and hammers broke down the doors and forcefully

evicted 150 monks ... beating some of the monks in the process'. The following day, more than 200 nuns fled the monastery to the nearby Phuoc Hue pagoda in Lam Dong province after being threatened. *The Guardian* newspaper reported in mid-December that a mob of about 100 people, who were allegedly led by undercover police and party officials, attacked the pagoda and assaulted some occupants. The authorities gave the occupants until 30 December to leave that pagoda and many have since gone underground to escape persecution, while others have asked for asylum in France, according to *the Guardian*. Observers such as HRW linked the attacks to proposals made by Thich Nhat Hanh in 2007 urging the government to ease restrictions on religion.

While a 2004 Ordinance on Beliefs and Religions allows for religious freedom, Vietnam's government requires all religious groups to be authorized and overseen by management committees. The government recognizes six religions and 29 'religious organizations'. Members of groups which are not recognized face persecution. The Unified Buddhist Church of Vietnam (UBCV), for example, is banned and its members are routinely threatened, detained and imprisoned and harassed. In a July 2009 incident, police prevented UBCV monks in pagodas in south and central Vietnam from leaving to attend a memorial ceremony for their patriarch, according to HRW.

Christians and followers of other religions faced similar persecution by the authorities during 2009. About 200,000 Catholics protested in July 2009 after police destroyed a temporary church and arrested 19 people. During the attack, police beat parishioners with electric batons and used tear gas, according to HRW. On 27 March, an appeals court upheld the sentences of eight Catholics who were convicted in December 2008 of destroying public property and disturbing public order. They had been protesting against what they said was government expropriation of church property. About 5,000 Catholics marched to the appeals court but were stopped by a reported 1,000 police officers in riot gear, according to a story by *Viet Catholic News* that was posted on the Vietnam Human Rights Network website.

Other Christians who were not members of churches registered with the government-sanctioned Evangelical Church of Vietnam (ECV) were also



**Left:** Hmong children near Sapa, in the north of Vietnam. *Dieter Telemans/Panos.*

however, the group of 24 remained in political limbo, living in a pagoda and surviving on donations of food, according to the *Phnom Penh Post*.

Vietnam's ethnic minorities also faced barriers to health care, education and other services. The UN Children's Fund (UNICEF) reported that the poverty rate among ethnic minorities was 69 per cent, compared to a rate of 23 per cent for the majority Kinh (80 per cent of the population) and Han Chinese ethnic groups. In Cao Bang province, where ethnic minorities make up 98 per cent of the population, maternal mortality rates are more than ten times those in Bin Duong province, near Ho Chi Minh City, according to UNICEF. A World Bank report, released on 3 June 2009, identified six factors for higher poverty rates among ethnic minorities: lower education levels, cultural prejudice, less mobility, lack of access to fertile land, lower market access and lack of access to financial services. The report recommended improving education levels among ethnic minorities as the key to addressing poverty.

## East Asia

Jared Ferrie

### China

Contributed by Marusca Perazzi

**T**he year 2009 was the 60th anniversary of the founding of the People's Republic of China (PRC) and the 20th anniversary of the Tiananmen Square massacre. The Chinese government marked the year by consolidating its political power and celebrating its achievements in many areas, while pledging to improve the country's human rights record. With the publication of the first National Human Rights Action Plan (NHR plan 2009–10) on 13 April 2009, 'The government admitted that "China has a long road ahead in its efforts to improve its human rights situation"', as reported by the official Xinhua news agency. The NHR plan includes a section on the protection of the rights of ethnic minorities and promised

Chinese citizens better living standards, greater political rights and additional legal protection. On 3 December, the Xinhua news agency disseminated a speech by the Minister of the Information Office of the State Council Wang Chen on the successful implementation of the NHR plan, stating:

*'From what had been observed in the appraisal process, the National Human Rights Action Plan was well or relatively well implemented up to date. ... For most of the targets and tasks which are expected to be finished in two years, 50 per cent, or even 65 per cent for some, have been accomplished so far.'*

The government further stated how during the year:

*'the rights of ethnic minority groups have been further protected with the adoption of various measures to boost social and economic development in regions inhabited by ethnic groups. The State Council convened the first national conference on ethnic minorities' cultures and promulgated regulations and policies to promote the development of ethnic minorities and their cultures.'*

The speech was supported by government statistics referring to central government investments of 1.24 billion yuan in infrastructure construction, housing projects and improvements in the standard of living and incomes of minorities in the Tibet Autonomous Region (TAR) and the Xinjiang Uighur Autonomous Region (XUAR). However, while the official statistics seem to record significant percentage increases in employment rates and per capita disposable income in these geographic areas, they failed to provide any disaggregated data proving that minority groups inhabiting those 'autonomous' regions had been the primary beneficiaries of such funding, when the areas are increasingly populated by an overwhelming number of Han Chinese.

In practice, China's human rights record remains a matter of serious concern, with economic growth and development not translating into improved minority rights protection. In February 2009, the Chinese government showed that its human rights commitment is less than whole-hearted when it rejected many of the recommendations of the UN Human Rights Council Working Group on the Universal Periodic Review (UPR), which called for greater democracy, an improvement in the human rights situation and greater adherence to the rule of law.

victims of the crackdown on religious freedom. At least 40 Montagnards – persons belonging to the indigenous communities of the Central Highlands, many of whom are Christian – were arrested in Gai Lai province in 2009, according to HRW. In one incident, police raided a prayer meeting of Montagnards on 14 August and beat eight people so badly that one had to be hospitalized. In February, police arrested 11 Montagnards and beat them and shocked them with electric batons in an attempt to force them to join the ECV. At least 300 Montagnard Christians are imprisoned in Vietnam, according to HRW.

The Vietnam Human Rights Network released a statement accusing police of beating to death Thach Thanh No, a deacon of the Khmer Religious Alliance Church, on 4 April 2009. The incident allegedly took place in Tra Vinh province, in the Mekong Delta. The region is home to many Khmer Krom, who share their ethnicity with the majority population in neighbouring Cambodia, but are a minority in Vietnam. The Khmer Krom have accused the government of expropriating their farm-

land and implementing policies aimed at assimilating them. For example, almost all schooling, even in areas where they are the majority, is conducted in Vietnamese rather than in Khmer. In January 2009, HRW released a report highlighting abuses committed against the Khmer Krom. HRW obtained internal memos written by government officials, 'outlining their concerns about unrest among the Khmer Krom in the Mekong Delta and strategies to monitor, infiltrate and silence Khmer Krom activists'. In December 2009, a group of 24 Khmer Krom arrived in Cambodia and asked for asylum, according to reports in the *Phnom Penh Post* newspaper. One member of the group, Choa Sokha, said he was arrested and tortured after leading protests calling for religious freedom in 2007. He initially fled to Cambodia but crossed into Thailand after facing harsh treatment by Cambodian authorities. In December, Thailand sent them back to Cambodia, as it did in June with another group of 54 Khmer Krom. Under Cambodian law, Khmer Krom have the right to citizenship and therefore could not apply for asylum as refugees. At the end of 2009,

In reality during the year, ethnic, religious and linguistic minorities faced severely discriminatory practices in mainstream society. With regard to religious minorities, there were numerous examples of human rights violations, including: abuses of freedoms of expression, speech and press; denial of other civil and political rights; an insufficiently independent and effective judiciary; as well as many cases of arbitrary arrest, detention and inadequate access to remedy. Respect for the fundamental rights of some ethnic minorities, notably freedom of religion, conscience and movement remained closely monitored and severely restricted. Moreover, systematic failure to implement basic labour standards and address labour rights infringements gained China bottom place out of the 196 countries in the *Labour Rights and Protection Risk Index – Human Rights at Risk Atlas 2010*, a human rights risk assessment tool produced by the UK-based research company Maplecroft.

During 2009, the Chinese government's authoritarian tendencies continued to weaken the rule of law. It did, however, take a number of positive steps, most especially in the area of legislation. There were attempts to draft a refugee law, revise the Law on the Protection of State Secrets of the People's Republic of China, and reform the extra-judicial administrative form of punishment for minor offences operating outside China's Criminal Procedure Law (CPL), known as Re-education Through Labour (RTL), with the newly drafted Illegal Behaviour Correction Law (IBCL). However, these initiatives were marred by other restrictive measures affecting key human rights. Legal barriers affected the implementation of China's minorities policy. For example, no significant progress was made to include a definition of racial discrimination and a prohibition of discrimination in domestic legislation. In August 2009, the UN Committee on the Elimination of Racial Discrimination (CERD), in its Concluding Observations, commended China for adopting a series of policies and programmes aimed at the advancement of minorities, including protecting the rights of special groups in the Hong Kong Special Administrative Region (HKSAR) through mechanisms such as the Women's Commission and the Ethnic Minorities Forum, and the entry into force of the Race Discrimination Ordinance. Nevertheless, in practical terms a number of rights obligations remained unfulfilled. In its report, CERD expressed concerns regarding the Chinese

authorities' lack of disaggregated statistical data regarding the socio-economic status of members of ethnic minorities. CERD also criticized obstacles to the effective public participation of minorities and particularly minority women. And the UN body criticized the incentives system that grants the right to work and settle in autonomous minority areas 'that might substantially alter the demographic composition with negative impact on customary traditions and cultures'. CERD also urged the Chinese government to improve its respect for the religious.

#### **Defiance and repression**

As indicated in MRG's *State of the World's Minorities 2007*, the Chinese authorities' classification of 55 national minorities (*shāoshù mínzú*), neither reflects the self-identification of such groups nor the reality of ethnic diversity within the country's boundaries. While some of China's minority groups may have benefited from such recognition, the system is still fraught with difficulties, and largely used as a comparative exercise to emphasize Han superiority, given that ethnic minorities are discriminated against in all walks of life.

In 2009, the Chinese authorities equated the frustration of ethnic minorities, especially the Tibetan and Uighur populations, with social unrest to be repressed, leaving the underlying factors fuelling their discontent unaddressed. The government brushed aside the root causes of minorities' discontent as well as Han resentment of 'minorities' special treatment'. It also displayed a lack of understanding and intolerance towards the reality of ethnic diversity across the country. While gaining widespread support for its 'corrective' policies in the XUAR and the TAR from the Han majority, the regime implicitly contributed to undermining the frail social fabric and exacerbated the already tense relations between minority communities and those Han who live in the TAR, the XUAR and Inner Mongolia (IMAR). But the disproportionately violent measures adopted by the Chinese government to repress subjugated and discriminated ethnic communities cannot be condoned on the basis of the state's obligations to protect its citizens and to maintain social stability.

The year 2009 was a defining one for Uighurs in the XUAR. The population has long suffered persistent human rights abuses, widespread discrimination and loss of land to the detriment of their

ethnic identity and culture. Initially peaceful demonstrations on 5 July 2009 became violent resulting in the deaths of 197 people, mainly Han, with over 1,700 injured, according to the White Paper of the Information Office of the State Council of the PRC, *Development and Progress in Xinjiang*, published in September 2009. The Chinese authorities have presented the violent incidents of July 2009 in the XUAR merely as an inter-ethnic conflict between Uighurs and Han, rather than admitting that the violence was an expression of the deep frustration felt by Uighurs. The causes are many and include ongoing state-sanctioned or state-instigated repressive measures, the lack of implementation of policies relating to Uighur development, and forced mass assimilation processes.

With the September '100-day' and the November 'strike hard' official campaigns in 2009, and the new regional 'law on education for ethnic unity' threatening 'national unity' on top of the existing national law against secession, the authorities targeted Uighurs across the XUAR. By the end of 2009, the China News Service reported that 34 people had been convicted of committing crimes in connection with the rioting in July. Another 22 had been sentenced to death, with nine executions having already occurred by year's end.

Since the violent clashes in the XUAR in July 2009, the Chinese government has enforced a massive communications shutdown, tightly controlling the flow of information across the region and in neighbouring provinces. Online sources of information and mobile communications remained censored for months following the July incidents.

The treatment of hundreds of Uighur men, women and children in the XUAR followed the same pattern as that which occurred after the March 2008 Tibetan riots, which led to four persons being sentenced to death and hundreds still remaining unaccounted for, according to USCIRF 2009. By the end of April 2009, the US Congressional-Executive Commission on China (CECC) in its 'Special Topic Paper: Tibet 2008–2009' reported that TAR courts had convicted 84 Tibetans in connection with the 2008 riots to sentences ranging from death, death with a two-year reprieve or life imprisonment. In the same vein, CECC described how the judicial authorities have used the state secrets law and other measures, 'to prevent and punish attempts to share information on protests, the suppression of the pro-

tests by security forces, and the government's continuing crackdown in Tibetan areas'. In November 2009, AI called for urgent action to be taken, as there had been sporadic reports following the Tibetan demonstrations of 2008 of Tibetan monks and nuns facing intimidation and harassment. Individuals were being prosecuted in unfair trials and those who were being held in detention centres were enduring cruel, inhuman or degrading treatment, torture, or in some cases death. Despite such severe repression, 2009 nevertheless saw renewed political protests against the Chinese policies towards Tibetans continuing in Sichuan province.

In March 2009, the European Parliament adopted a resolution on Tibet, pressuring China to resume a dialogue on 'real autonomy for Tibet' on the basis of the *Memorandum for Genuine Autonomy for the Tibetan People*, a document presented to Beijing by envoys of the Dalai Lama in 2008. The European Parliament expressed concern over the lack of access to fair trial procedures for convicted Tibetans and Uighurs, and strongly condemned the execution of two Tibetans in September 2009. In a November 2009 resolution, the European Parliament called for the commutation of all pending death sentences related to the Tibet protests of the previous year. It also called on the Chinese government, 'to make efforts to develop a genuine Han-Uighur dialogue, to adopt more inclusive and comprehensive economic policies in Xinjiang aimed at strengthening local ownership, and to protect the cultural identity of the Uighur population'.

In the IMAR, where ethnic Mongols have long been subjected to cultural assimilation, population transfers and political repression by the Chinese authorities, the NGO Southern Mongolian Human Rights Information Centre (SMHRIC) recorded that, during 2009, human rights advocates remained imprisoned while other activists had been jailed for "attempting to organize a protest" in the regional capital Hohhot in May for the 62nd anniversary of the Inner Mongolia Autonomous Region.'

#### **Freedom of religion**

While China is officially atheist and religious activities remain a very sensitive subject, freedom of religion is enshrined in the Constitution and regulated by a body of national and regional laws that oversee the 'normal religious activities' of all religious groups. Only officially sanctioned religions

– Buddhism, Catholicism, Islam, Protestantism and Taoism – are protected under PRC law. While Buddhism is implicitly supported by the government, Roman Catholicism is officially ostracized and Catholic adherents can only be involved in religious activities through the state-sanctioned Three-Self Patriotic Movement of the Protestant Churches of China and the Chinese Catholic Patriotic Associations. Under the Regulations on Social Organizations (RSO), ‘patriotic religious associations’ of Buddhism, Taoism, Islam, Catholicism and Protestantism are regulated by the State Administration for Religious Affairs (SARA) and control the scope of the registered and unregistered religious groups. According to a Chinese government White Paper published in 1997, China had over 100 million followers of various faiths. In May 2008, the international *National Geographic* magazine reported that the country was composed of 41.5 per cent atheists, 27.5 per cent Chinese folk believers, 8.5 per cent Buddhists, 8.4 per cent Christians and 1.5 per cent Muslims. Government statistics refer to 20 million Muslims, 16 million Protestants and 5 million Catholics, although unofficial figures are higher.

The issue of religious freedom remained very sensitive during 2009, with citizens mostly unable to uphold their right to freedom of religion through any legal recourse. Practitioners of ‘illegal’ faiths were often subjected to harassment, beatings and detention. The US CECC in its 2009 ‘China Human Rights and Rule of Law’ update pointed out how an unknown number of unregistered religious groups experienced major difficulties in registering and had been subjected to informal oppressive administrative measures at the hands of local authorities, the Religious Affairs Bureau (RAB) and the Public Security Bureau (PSB).

In 2009, the Chinese leadership pointed to the need for religious affairs to be governed by law rather than by administrative means, ‘through a correct understanding and proper handling of key and difficult religious affairs’, to ensure China’s social harmony and stability. In a March 2009 Special Press Summary upon the opening of the Second Session of the 11th National People’s Congress (NPC), China’s top legislative organ, the Xinhua news agency reported Premier Wen Jiabao as saying, ‘We will fully implement the Party’s basic principles on work related to religions and enable religious figures and

**Right:** The Chinese government is in the process of tearing down the Old Town in Kashgar to replace traditional Uighur homes with modern Chinese buildings. Xinjiang, China, April 2009. *Carolyn Drake/Panos.*

people with religious beliefs to play a positive role in promoting economic and social development.’ The government remained wary of religions regarded as a contributing to social unrest, but there was official tolerance of religious groups seen as non-threatening, such as those associated with Buddhism and Taoism, like the Zhuang followers of the Sue Gong in the provinces of Guangdong, the Guangxi Autonomous Region, Guizhou and Yunnan.

Some Han followers of Buddhism, Catholicism, Protestantism or Taoism have faced religious restrictions and detentions in 2009. Among the Tibetan Buddhist (Lamaism) sects, the powerful Gelug – with the Dalai Lama as spiritual leader – remained the most persecuted and discriminated against in the TAR and the IMAR, enduring rigorous restrictions of religious practices. In contrast, Ben, Kagyu, Nyingma and Sakya Buddhist devotees from Lhobas, Monbas, Tus and Yugurs enjoyed greater religious freedom and less official scrutiny. The same went for Achang, Bai, Blang, Dai, De’ang, Gin and Lahu ethnic minorities practising Hinayana or Pali Buddhism in Yunnan province. Most Muslims, including Bonan, Dongxiang, Hui, Kazaks, Kirgiz, Salar, Tajiks, Uighurs, and Uzbeks who live in Gansu, the Ningxia Hui Autonomous Region, Qinghai and the XUAR could exercise their religious rights. At the end of October 2009, the *China Daily*, for example, reported that 2,250 pilgrims from north-west China’s Ningxia Hui Autonomous Region set off for the *hajj* to Mecca. However, Freedom House noted in its 2009 *Freedom in the World* report that the religious activities of Muslims in the XUAR were increasingly curtailed. Freedom of assembly, association and movement were severely restricted, and there were reports that young Uighurs and Tibetans had been forcibly indoctrinated by the People’s Liberation Army. Official exploitation of religion and suspicion towards certain religious communities have made society as a whole, and minorities in particular, vulnerable and fearful about the future.

Despite concerted governmental efforts to prevent the spread of Christianity through restrictions on



activities, as well as intimidation and imprisonment of religious leaders and activists, the number of Catholics and Protestants continued to grow, mainly in large cities such as Beijing, Guangzhou, Shanghai and Wuhan, and in certain rural areas. A considerable number of Miao, Yao and Yi minorities also practise Catholicism or Protestantism, with no reports of religious rights infringements during 2009.

The ban on the practice of those beliefs which the state has designated to be ‘evil cults’, including the Falun Gong, remained in place. Through central government directives, like the ‘Strike Hard’ campaign, the authorities increased coercive and punitive measures against these communities. The US CECC’s 2009 report found that Falun Gong adherents had died after beatings. Falun Gong followers had also been exposed to electric shocks and force-feeding during 2009, while being detained in RTL camps or in police custody, where there were

reports of physical abuse and other forms of inhuman treatment.

### Democratic People’s Republic of Korea

North Korea is almost entirely homogeneous with regard to ethnicity. While freedom of religion is recognized under domestic law, according to USCIRF 2009, ‘genuine religious freedom does not exist’. In an August 2009 report on human rights in the Democratic People’s Republic of Korea, the UN noted that, ‘In reality, religions are seen as unwanted competition for the cult-based indoctrination based upon the 10 principles for unitary ideology preached by the regime, which deifies the leadership at the top in a pseudo-theocratic manner.’

USICRF 2009 recorded that between 150,000 and 200,000 prisoners were being held in remote camps on religious grounds, and that in May 2009:

*'Reports continue to indicate that the North Korean government has taken new steps to combat the growth of clandestine religious activity, particularly that which reportedly is spread by cross-border contact with China. According to the testimony of North Korean refugees, anyone engaged in such activity can be arrested, tortured, and imprisoned.'*

In February 2009, the UN cited reports it had received that:

*'security agents from the National Security Agency (bowibu) and the public security agency (anjeobu) have stepped up their surveillance and infiltration at borders in order to halt religious activities, even posing as pastors or setting up fake prayer meetings to entrap new converts. Those who seek refuge in other countries and who contact missionaries are liable to be punished severely if sent back.'*

## Japan

Despite positive political developments for Ainu in 2008, members of the indigenous community still faced major obstacles in 2009, according to survey results released in June 2009 by the Hokkaido University Centre for Ainu and Indigenous Studies. The study indicated that household incomes among Japan's 50,000 Ainu are only 60 per cent of the national average, and college advancement rates are half those of other Japanese people. The chief of the University Centre told media that such data could be useful to the government in formulating policies in support of Ainu.

In 2008, the Japanese House of Representatives officially classified the Ainu as an 'indigenous people'. Many commentators saw this as a substantial step forward, as the resolution was linked to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The government set up an expert panel to determine future policies to uphold Ainu rights and help guide policy. The Hokkaido University June 2009 report suggested that the government has a long way to go to make up for past injustices, which include the seizure of traditional lands, cultural repression and forced assimilation, including a prohibition on use of the Ainu language. More than half the survey respondents said they had no experience of preserving aspects of their culture, such as their language, song, dance and storytelling.

Less than 70 per cent of Ainu youth make it to high school, 10 per cent of those drop out. In universities and colleges, the drop-out rate is 19 per cent. More than half the respondents said they expected government to enact measures to help them access education. The panel established in 2008 submitted a report to the Japanese government in June 2009, which stated that the government bears a 'strong responsibility' for restoring Ainu culture. Included in the recommendations was legislation that would give Ainu special access to land and water resources so that they could maintain such traditions as salmon-fishing. According to a 30 July 2009 article in the *Japan Times*, the government plans to establish a consultative body on Ainu affairs, which will include Ainu representatives.

Prejudice against Burakumin remains widespread. Ethnically non-distinct from the majority of Japanese, they were the lowest caste during the Edo period from 1603 to 1868. Although the caste system has long since been abolished, discrimination remains and the issue was brought to the forefront in 2009 when Google posted a map online that distinguished 'burakus', or districts where many descendants of Burakumin still live. The *Japan Times* quoted sources saying that descendants of burakumin are often blacklisted from jobs and face other forms of discrimination. In a July 2009 report, Freedom House also noted, 'Japan's three million burakumin, who are descendants of feudal era outcasts, and the indigenous Ainu minority still suffer from entrenched societal discrimination that prevents them from gaining equal access to housing and employment opportunities.' During its 23 July 2009 review of Japan's report to the UN Committee on the Elimination of Discrimination against Women, the Committee, 'expressed regret at the lack of information and statistics concerning minority women'. In a report released by the UN, the committee also noted a lack of 'any proactive measures, such as a policy framework to promote their rights'.

## Maldives

Islam is the state religion of the Maldives. The Constitution, ratified in 2008, prohibits citizens from practising other religions and precludes non-Muslims, including the Christian minority, from voting or holding public office. Non-Muslim foreigners must practise their religious beliefs in private, according to USCIRF 2009. The government

failed in 2009 to act on a UN recommendation to grant religious freedom to the approximately 80,000 foreign workers in the country. The Constitution also states that the president, cabinet ministers, members of parliament and the judiciary must be Sunni Muslims. Atoll chiefs may practise other forms of Islam (an atoll is an island of coral that surrounds a lagoon). According to a report released in October 2009 by the UN, the UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, expressed concern in May about an article of the Constitution that prevents non-Muslims from becoming citizens. Jahangir wrote in her statement, 'The implementation of this article ... could have a significant negative impact on human rights in the country, including those for individuals who have converted from Islam.' The UN received no response from the government.

Not satisfied with enshrining Islam as the official and compulsory religion, the government took steps in 2009 to oversee the way it is practised. On 4 January, the Ministry of Islamic Affairs announced its intention to prevent groups from holding Friday prayers at a time other than 12:35, which is the officially sanctioned prayer time, the US State Department reported. On 1 March, the government established a committee on religious issues, which promptly discussed a ban on discos in order to prevent 'un-Islamic conduct', according to a committee member. In April, the Ministry of Islamic Affairs started a programme to promote religious awareness in schools, but the programme ignored religions other than Islam, which it promoted, USCIRF 2009 said.

Some laws in the Maldives, which were drawn up according to perceived Islamic values, discriminate against women, and women from minorities suffer multiple forms of discrimination as a result. In matters relating to adultery, finance and inheritance, the testimony of one man is equal to that of two women. In regard to inheritance, male heirs are granted twice the share of female heirs. Women are prevented from marrying non-Muslim foreigners, but men are able to do so.

## Mongolia

Contributed by Marusca Perazzi

Acute economic hardship, increasing poverty and unemployment, pervasive corruption, lack of transparency, and policing and security issues remained

problematic during 2009, according to the World Bank's *Mongolia Monthly Economic Update* on recent economic and social developments and policies in Mongolia. The Mongolian government, however, has taken some positive steps to foster human rights, ranging from suspending the death penalty to increasing equal access to education for 'vulnerable groups' and minority children, partly through a funding pilot scheme, according to the UN Human Rights Committee in its fifth periodic report of states parties to the ICCPR under Article 40.

The state sponsored translations of the Constitution and other legislation into Kazakh and renewed facilities for local-language television and radio broadcasting in Kazakh-inhabited Bayan-Ulgii *aimag*. In October 2009, at the end of the first visit by a UN Independent Expert to Mongolia, the UN Special Rapporteur on the right to education, Vernor Muñoz Villalobos, praised Mongolia's achievements while encouraging the government to produce disaggregated statistical data on minority education, and called for the promotion of a human rights culture to strengthen women's public participation and combat stereotyping.

After decades of repression, Mongolia's religious groups are calling on the Mongolian government to strengthen its adherence to freedom of religion or belief and promote greater religious tolerance. Mongols, 40 per cent of whom are atheists, generally tend towards practising traditional religions such as Shamanism and Lamaism rather than other faiths. With restrictions on proselytizing, the government respects the religious rights of Tibetan Buddhists (50 per cent), Muslims (4 per cent), Shamanism believers and Christians (6 per cent). Religious minorities rely on constitutional guarantees of freedom of religion or belief as well as the 1993 Law on Relations between the State and Religious Institutions and local policies. While religious groups such as the Kazakhs in Darkhan-Uul or Orkhon must register annually and reportedly face burdensome bureaucratic requirements, there were no accounts of any violent repression of religious minorities during the year, as confirmed by USCIRF 2009. However, government pressure and control of churches reportedly continued in Tuv province near Ulaanbaatar. Such local authority interference in religious activities in the area prompted followers of religious groups, like the International Religious Liberty Association (IRLA), to urge the government in September 2009 to implement religious freedoms.

In spite of widespread leniency towards others' religious beliefs, affiliations and customs, discriminatory attitudes persisted, with reports of harassment and abuse, albeit that these were more likely to have been induced by widespread socio-economic frustrations rather than religious differences.

Traditional prejudices and rivalries exist between Kazakhs and Khalka but no specific incidents were reported. In northern Mongolia, Muslim Kazakhs, Buddhist herders and nomadic Shamanist Tuva continued to maintain good relations. Along with Darkhad and Uriankhai, Tsaatan in Khuvsgul province follow their own unique Shamanistic tradition of nature worship, considered to be the oldest form of religion practised by Mongolian nomads. In addition to governmental and the community's own efforts to preserve its language, distinctive customs, and religious beliefs and traditions, the Tsaatan community sought to ensure their culture's future existence by initiating sustainable forms of community self-empowerment such as eco-tourism.

## Republic of Korea

Ethnic minorities make up a very small percentage of South Korea's 48.7 million people. The largest minority comprises approximately 20,000 people of Chinese descent who are barred from obtaining citizenship or becoming civil servants. Since citizenship is transferred through parents, some children born to ethnic Chinese parents have been rendered stateless, according to an 11 March 2009 report by RI. The children do not qualify for Korean citizenship, nor can they obtain Chinese citizenship if their parents are 'settled abroad' (i.e. if they have acquired permanent residency outside China).

Foreign workers, who have doubled in number over the past seven years to 1.2 million, have reported widespread discrimination. In a November 2009 briefing to the UN, AI reported discrimination in the workplace against foreign workers who are mostly from South Asia. AI cited cases of sexual abuse, racial slurs and mandatory disclosure of HIV status, and the group reported that 'incidents of xenophobia are on the rise' since the beginning of global economic crisis in 2009. Foreign workers have also reported abuse in public. Prosecutors charged a 31-year-old Korean man with contempt after he made racist and sexist comments on a bus during a 10 July incident that was widely reported in the media. The man insulted Bonogit Hussaine,

an Indian national who teaches at a Seoul university, and his female friend Hahn Ji-seon, who is Korean. The case prompted politicians to begin drafting legislation that would define discrimination by race and ethnicity, and impose criminal penalties, the *New York Times* reported.

USCRIF 2009 reported that, 'the government generally respected religious freedom in practice'. However, more than 400 Jehovah's Witnesses remain in prison due to conscientious objection to military service, according to the US State Department. Military service is compulsory for all South Korean men over the age of 18.

## Taiwan

An amendment made in 2000 to Taiwan's Constitution protects and preserves indigenous languages and cultures. The government officially recognizes 14 indigenous tribes, which account for 2.1 per cent of the population, or about 484,000 people. Six of 113 legislative seats are reserved for indigenous people. While relations between the government and indigenous groups are generally positive, household incomes for indigenous people remain significantly lower than the national average and unemployment rates are higher. The Council of Indigenous Peoples works with government ministries to raise living standards.

Taiwan's indigenous communities are concentrated in mountainous, rural areas in the east. Some indigenous villages were destroyed by Typhoon Morakot, which struck Taiwan on 7 August 2009, bringing record rainfall and mudslides in which about 500 people were killed. In the aftermath of the storm, mainland China directed some aid specifically towards indigenous communities, a move that was possibly symbolic of China's strategy of currying favour among minorities on one hand, while suppressing dissent on the other. The Chinese government, which considers Taiwan a province and blocks its attempts at gaining international recognition as an independent state, set aside 20 million yuan for ethnic minorities, according to a report by China's Xinhua state news agency. Chinese officials also promised Taiwan's ethnic minority and indigenous groups further assistance in economic development, including in the tourism and agricultural sectors, Xinhua reported.

Taiwan recognizes religious freedom and there were no significant violations reported in 2009.

While 93 per cent of Taiwan's 23 million people practise a mixture of Buddhism and Taoism, 4.5 per cent are Christian. Indigenous people account for about one-third of Taiwan's 300,000 Christians, according to a 24 February 2009 speech by Auxiliary Bishop John Baptist Tseng King-zi, which was reported by the Union of Catholic Asian News. He is Taiwan's only indigenous bishop. Tseng spoke at an event to mark the release of UN Educational, Scientific and Cultural Organization's (UNESCO) annual *Atlas of the World's Languages in Danger*. According to UNESCO, nine indigenous languages are 'unsafe', seven are 'critically endangered' and one is 'severely endangered'. Seven indigenous languages have disappeared from Taiwan over the past 50 years.

Taiwan's significant population of migrant workers was hit hard by the global economic crisis in 2009. Taiwan is an export-driven economy and employs migrants in factories that manufacture mostly garments and electronics. When exports fell by more than 40 per cent during the first quarter of 2009 compared to 2008, many foreign workers were laid off, while working hours dipped below full-time for others, according to *Migration News*, which is published by the University of California, Davis. Many foreign workers take out loans to pay brokers who place them in jobs. Once they arrive, they pay for company-provided accommodation. As workers lose employment, some find themselves unable to pay debts incurred while seeking work in Taiwan, *Migration News* reported.

# Oceania

## David Fickling

Migration was a key issue in Oceania throughout 2009. Indian and Chinese migrants in Australia and Papua New Guinea, in particular, were victims of violence. Australia's Labor government continued to uphold many features of the previous government's draconian refugee policy, although progress was made in some areas. Meanwhile, indigenous peoples in New Zealand and particularly Australia continued to suffer disadvantages compared to the majority population.

Oceania comprises more than two dozen states and territories spread across the south-western Pacific Ocean, all but three of which have less than 1 million inhabitants, and nearly a dozen of which have populations of less than 100,000. In the largest and third-largest countries, Australia and New Zealand, descendants of British and Irish colonists make up the bulk of the population. In Papua New Guinea, indigenous people form the majority of the population and the political class, although small numbers of ethnic Europeans and Asians are influential in political and business circles.

The Melanesian states closest to New Guinea have very diverse populations, characterized by large numbers of linguistic and cultural groups as compared to population size. The Polynesian states of the middle Pacific have more homogeneous cultures, with the Micronesian states of the north-west Pacific being intermediate between the two. Across the small Pacific island states, Asians and Europeans form significant minorities in almost every country; indigenous peoples are in numerical majority everywhere except the Northern Mariana Islands, where Asian communities formed 56 per cent of the population in the 2000 Census.

Of the smaller states, only Fiji has a significant non-indigenous population, the descendants of indentured Indian labourers brought in by British colonists around the turn of the twentieth century to work in the island's sugarcane industry. Indo-Fijians, who comprise around 37 per cent of the population, have historically had poor relations with the majority Fijian population. The country's two coups in 1987 and 2000 were prompted by elections in which the Indo-Fijian-backed Fiji Labour Party came to power, and the government that emerged from the 2000 crisis also excluded Indo-Fijians from positions of influence, in contravention of the country's Constitution. In 2006, the commander of Fiji's military forces, Frank Bainimarama, overthrew that government with the stated aim of ending the discrimination against Indo-Fijians, although his own post-coup government has become increasingly authoritarian. In April 2009, the country's court of appeal ruled the 2006 coup illegal, prompting the sitting government to suspend the Constitution and censor media outlets. The authorities have promised elections by 2014.

In recent years, the Asia-Pacific Forum of National Human Rights Institutions has been



**Left:** A young member of the Yolngu religion in Ramingining, Northeast Arnhem Land, Australia, undergoes an initiation ceremony or *dhapi*. Polly Hemming.

appeal in 2008, as a result of doubts about how a lower court had assessed evidence of traditional owners' links to the land. The new deal would settle all claims within two years, Western Australia's attorney-general said.

Meanwhile, Australia's 517,000 indigenous Australians remain far behind the majority population in a range of measures, including health, life expectancy, educational attainment and employment. Northern Territory students came last in national literacy tests in September 2009, with some age groups recording a decline on the previous year's scores. The results reignited a debate over bilingual education in remote indigenous schools, which the Territory government wants to enforce from 2010 to enhance English-language literacy. Indigenous groups fear the plans will threaten the survival of Aboriginal languages; 110 of Australia's 145 indigenous languages are in danger of disappearing and the government committed A\$9.3 million during 2009 to preserving them.

The federal government also acted in 2009 to abolish some draconian legislation regarding refugees. A rule barring asylum-seekers from working or receiving health benefits if they fail to apply within 45 days of arriving was lifted, and a law was passed to end a policy of charging refugees for their time in immigration detention, which in some cases resulted in bills of hundreds of thousands of dollars. However, an increase in boat arrivals of refugees off Australia's north-west coast tested the popularity of the Rudd government's more liberal refugee policy, particularly in October 2009, when an Australian coastguard vessel rescued 78 Sri Lankan Tamil refugees in Indonesian waters, sparking a stalemate when Indonesia refused to allow it to dock. The refugees were eventually allowed to disembark in Indonesia from where they will migrate to several countries, including Australia. The government's Human Rights Commission continued to criticize conditions at Australia's offshore Christmas Island centre, saying that its isolation limits detainees' access to legal advice, counselling and health care. Previous research has highlighted particular problems of gender insensitivity towards women in

Australian migrant detention centres. The site is also outside Australia's migration zone, meaning that refugees there are assessed at ministerial discretion and have minimal rights of appeal.

Bilateral ties between Australia and India came under pressure following violent attacks on some of Australia's estimated 100,000 Indian students, mostly in western Melbourne. Australian officials said that most such attacks were random robberies, but the Federation of Indian Students of Australia claimed that the authorities were downplaying evidence of racial motivation. Following extensive coverage of the issue in Indian media and promised boycotts of Australian-based shoots by Bollywood's biggest labour union, John Brumby, premier of the state of Victoria, visited India to reassure potential students. Australia's Tourism Forecasting Committee, an industry group, predicted a 20 per cent drop in Indian overseas student numbers in 2010 as a result of the negative publicity.

Around 60 per cent of Australia's population belongs to Christian denominations and a further 30 per cent are of no stated religion. Australia's 420,000 Buddhists form the second-largest group, making up 2.1 per cent of the population, according to the 2006 Census, followed by 340,000 Muslims.

In January 2009, the Queensland Retailers' Association called for a ban on people wearing any clothing that covers the face, including the Muslim *niqab*, in shops, but the proposals were not taken up by the state government. In December, the New South Wales administrative decisions tribunal upheld a complaint of racial vilification against talk radio broadcaster Alan Jones and ordered him to pay A\$10,000 in damages over comments made on air in the run-up to the 2005 Cronulla riots. Using strongly derogatory language, Jones had said that persons of Middle Eastern origin had 'taken over' the beach in southern Sydney and called for a 'community show of force' against Lebanese Australians visiting it. More than 100 people, from both majority and minority ethnic groups, were charged following the subsequent riots and retaliatory unrest.

## New Zealand

The indigenous Maori make up around 15 per cent of New Zealand's population and have traditionally enjoyed better civil rights than many other colonized peoples, although they continue to suffer from racism and lower educational,

pressing Pacific countries to establish their own human rights bodies, and both Papua New Guinea and Nauru took steps to set up such groups during 2009.

## Australia

Progress was made in 2009 towards undoing the damage done by several previous setbacks for indigenous rights in Australia. In November, the federal government introduced a law to reinstate the Racial Discrimination Act in the Northern Territory. The Act had been suspended for the purpose of the 2007 National Emergency Response (NER), a military-backed intervention in the Territory's indigenous communities, that was prompted by reports of widespread sexual abuse against Aboriginal children, principally by adult male Aborigines. The NER involved far-reaching measures, including alcohol bans, prescribed spending patterns and state control of Aboriginal land, prompting an investigation by the UN's Special Rapporteur on indigenous rights, James Anaya, in August 2009. The NER will be

adjusted to comply with the Act from July 2010, but Aboriginal groups argue that the most controversial measures will remain in place.

The government also announced that it will establish a new representative body for indigenous Australians to replace the Aboriginal and Torres Strait Islander Commission, which was abolished by the federal government in 2004 following claims of corruption among its leadership. The body is expected to be functioning by January 2011. The government also signed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in April 2009. The step was particularly significant, given that Australia had voted against the declaration when it was adopted by the UN General Assembly in 2007.

In Western Australia, the government signed an initial agreement with the Noongar people over a native title claim covering the city of Perth and large parts of the south-west of the state. Court claims over the issue were first lodged 12 years ago, but were rejected by Australia's Federal Court on



**Left:** Women sing and pray during a Sunday church service in the village of Kubut, in the Western Province of Papua New Guinea. The majority of local citizens are members of a Christian church; many have combined their Christian faith with traditional indigenous practices. *Natalie Bebring/Panos.*

whelming majority of the population are Christian, although traditional beliefs remain very strong, and reports of religious discrimination are rare. Baha'is form the second-largest religious group, with local leaders claiming up to 40,000 followers. There are a few thousand Muslims, including increasing numbers of converts.

Unrest overtook more than half a dozen of Papua New Guinea's major towns in May 2009, after a dispute between local and Chinese migrant workers at a nickel refinery site near the northern town of Madang led tens of thousands of New Guineans to take to the streets in a wave of anti-Chinese protests and riots. Diplomats reported that nine Chinese-run businesses had been looted, while three rioters were shot dead and one trampled to death in the turmoil, according to *The Australian* newspaper. Ethnic Chinese have been present in Papua New Guinea since the nineteenth century, but migrant numbers have grown rapidly over the past decade. They are now estimated to comprise around 20,000 people, or 0.3 per cent of the population. Some have set up small goods shops and fast food outlets, which make them a highly visible presence in New Guinean towns. Many indigenous New Guineans believe these businesses undercut locally owned rivals and claim that their owners have obtained work permits fraudulently. Around half a dozen ethnic Chinese have been killed over the past decade by indigenous employees alone. The unrest echoed similar violence against Chinese businesses in the neighbouring Solomon Islands and in Tonga in 2006.

Papua New Guinea's highly diverse population means that there is no single dominant ethnic or linguistic group, although outside their own communities indigenous New Guineans can become marginalized. A strong tradition of land ownership and widespread poverty means that migrants from rural areas frequently end up in squatter settlements on the fringes of large towns. These are popularly regarded as encouraging crime and disease, and are regularly bulldozed by police. Parts of the Five Mile

settlement in the capital Port Moresby were razed in June 2009, and further demolitions were carried out in the suburbs of Four Mile and Hohola the following month, the UN Office of the High Commissioner for Human Rights (OHCHR) reported. Local media quoted residents claiming that food, goods and money were taken during the raids. Police also demolished squatter settlements around the Porgera gold mine in the New Guinea highlands in April. The facility is owned by Barrick, the world's largest gold mining company. The company says the squatters were carrying out illegal mining, but local groups say that most were forced to pan tailings due to degradation of their land. Plans to remove camps around the highlands town of Goroka were also announced in September 2009, although they had not been carried out by year's end.

Sporadic violence between clans continued through the year, particularly in Enga and Eastern Highlands provinces. Such tit-for-tat violence has historically been common in the New Guinea highlands, although political rivalries and the relatively recent introduction of guns are thought to have worsened the situation over the past few decades.

Inter-clan sexual violence is also a common trigger for such feuds, and the UNICEF has reported that Papua New Guinea has one of the world's highest rates of sexual violence. Traditional practices that relegate women 'to the status of chattel', according to UNICEF, contribute to rape going under-reported. Women are also excluded from political participation at all levels. In March, the government's sports minister, Dame Carol Kidu, introduced a bill to increase women's presence in national politics by adding three appointed female representatives to the 109-member parliament. The measure failed to gain the necessary two-thirds majority to pass. Dame Carol Kidu is the only woman in the national parliament. ■

economic and health outcomes than the majority population. In November 2009, the cabinet in Wellington signalled that it would repeal controversial legislation passed in 2004, ruling that New Zealand's foreshore and seabed belonged to the Crown and could not be transferred to Maoris. The legislation had been strongly opposed by the Maori Party, which forms part of the National-led coalition government. The UN Human Rights Council, in May 2009, called on the government to find ways of compensating Maoris for the loss of their traditional lands and pursue a review of the Act, as well as to take action to address other aspects of disadvantage suffered by Maori. Following Australia's signing of the UNDRIP in April 2009, pressure built on New Zealand to do the same. Maori Party leader Pita Sharples suggested that an endorsement was likely, however the government backed off from that position.

A survey in February 2009 by New Zealand's Human Rights Commission found that 74 per cent of respondents believed Asians, who comprise 7 per cent of New Zealand's population, suffer some level

of discrimination. Attitudes towards ethnic Chinese had improved over the previous year, although opinions about ethnic Indians had become more negative, the group reported. Two school-children in the south island city of Christchurch were suspended in August 2009, after a racist attack on an Indo-Fijian student who had recently started at the school. Sixty per cent of people in the survey also believed that Pacific Islanders, who make up a further 7 per cent of the population, suffered discrimination. The Commission said that the majority of the nearly 6,000 complaints it had dealt with over the course of the year had related to racial, disability and sexual discrimination, but pointed out that New Zealand has no system of collecting official data on racially motivated crime, an issue that has previously been raised by the UN.

### Papua New Guinea

Papua New Guinea has one of the most heterogeneous populations in the world, with more than 800 languages spoken among its 6.2 million people, according to the World Bank database. The over-



# Europe

Katalin Halász

The experiences of ethnic, religious and linguistic minorities and migrants in Europe reveal persistent discrimination, prejudice, stereotyping and racism. Xenophobic attacks occur regularly throughout the continent. While there have been fine declarations and well-meaning anti-discrimination policies and legislation, considerable work remains to be done in confronting widespread prejudices on the streets and in the mindset and language of mainstream institutions.

Around one in six people in Europe claims to have personally felt discriminated against or harassed, according to a Eurobarometer survey released by the European Commission in November 2009. The results of the survey show that, at 61 per cent, discrimination on ethnic grounds is seen as the most widespread form of discrimination in the European Union (EU). More than one-third of Europeans also think that discrimination on the grounds of gender and religion or belief is widespread.

The EU's Agency for Fundamental Rights (FRA) published the first ever EU-wide survey on ethnic minority and immigrant groups' experiences of racist crime and discrimination in 2009. It revealed a certain resignation on the part of ethnic minorities and immigrants, due to a lack of faith that the authorities would provide effective protection against discrimination, harassment and racially motivated violence. Racist crime and discrimination may, therefore, be far more widespread than is recorded in official statistics.

Europeans were also asked how they thought the recession would impact on funding for equality and diversity policies in their countries. The 2009 Eurobarometer figures show that Europeans have few illusions about the impact of the crisis, with 49 per cent of Europeans believing that, because of it, policies promoting equality and diversity will be considered less important and receive less funding. Furthermore, more than half of Europeans think that a possible increase in the levels of discrimination in the labour market on the grounds of ethnic origin will follow, while more than 40 per cent state that the crisis will contribute to increased levels of discrimination in the labour market on the grounds of gender (43 per cent) and religion or belief (42 per cent).

In response, the Council of Europe (CoE) Commissioner for Human Rights, Thomas Hammarberg, called on states to ensure better pro-

tection of vulnerable groups in the current economic climate, so that the response to the crisis leads to more rather than less equality.

Non-governmental organizations (NGOs) working on social justice issues and human rights also draw attention to the impact of the economic crisis on the poorest and most marginalized communities. In the absence of reliable statistical data on vulnerability caused by the economic recession, the International Federation of Red Cross and Red Crescent Societies (IFRCRCS) published in October 2009 testimonies of people from 52 countries in Europe, Central Asia and the Caucasus, many of them belonging to a minority group. The IFRCRCS identified pre-existing vulnerabilities, namely poverty, age, membership of a minority or being a migrant, as the key determinants of adverse impact. Moreover, the organization expressed fears that the economic downturn may make such vulnerabilities more entrenched.

Commentators warn that it is still too early to assess the social, economic and political impact of the recession on minorities. However, the Anti-Defamation League (ADL), a US-based NGO, carried out a survey in seven European countries in February 2009 which found that 31 per cent of respondents blame Jews in the banking sector for the current economic crisis. Populist-nationalist parties in Europe are spreading anti-Semitic, anti-immigrant and anti-integration messages, blaming ethnic and religious minorities for the downturn. Blaming the Jewish community for the recession or playing on sensitive issues such as immigration, Islam and 'benefit-breeding', the radical right made gains in the European Parliament and won seats in Austria, Denmark, Greece, Hungary, Italy, the Netherlands, Slovakia, Romania and the UK. A new Eurosceptic group was formed in the European Parliament, the Europe of Freedom and Democracy group, under the leadership of the UK Independence Party (UKIP). A number of the group's parties are described by national and European media as far-right, anti-immigration, xenophobic and, in some cases, racist.

Anti-migrant messages, such as comments made by the far-right British National Party (BNP) leader Nick Griffin soon after he entered the European Parliament in 2009, found their parallels in reality. In May 2009, Italy forcibly returned more than 200 migrants to Libya, without screening them to dis-

cover if any might be refugees or victims of trafficking, pregnant women, unaccompanied children, sick or injured. Boats carrying the migrants were intercepted at sea, and Italy persuaded Libya to receive the passengers following an earlier agreement. Joint naval patrols and other returns soon followed. Libya has no asylum procedure and has not signed the 1951 United Nations (UN) Convention relating to the Status of Refugees. Many migrants are held indefinitely in detention centres where conditions are reported to be poor.

This incident led to an international outcry and put European migration policies in the spotlight. Hammarberg also highlighted the European trend of criminalizing undocumented migration, stating that it raises serious human rights issues. In Italy, for example, the parliament approved legislation in 2009 which criminalizes irregular entry, allows citizens' patrols to help the police to keep order, and sentences landlords to up to three years in prison if they rent to undocumented migrants. In April 2009, Jennifer Chary was prosecuted in France for aiding and abetting an undocumented migrant who was the man she was about to marry. When they applied for a marriage licence, Chary's partner was deported and she was charged with the offence, which carried a penalty of up to five years' imprisonment plus a steep fine. Ultimately, negative publicity led the prosecutor to drop the case. Such restrictive migration laws and policies not only criminalize migration but also run the risk of encouraging xenophobic attitudes towards both migrants and established minorities. Moreover, the criminalization of undocumented migrants means that fewer individuals will be willing to bring complaints against people-smuggling rings, or employers who take advantage of the undocumented.

Nevertheless, a harsh tone was maintained at the EU level as well. EU member states have for the first time asked for the creation of joint flights to deport irregular migrants, financed by Frontex, the European agency in charge of the EU's borders. And an EU Directive was adopted during 2009 that penalizes employers of undocumented migrants, further risking the exploitation of migrants already in a vulnerable position. The Stockholm Programme (adopted under the Swedish Presidency of the EU in December 2009) outlines the EU's vision in the area of freedom, security and justice for the period 2010–14 and covers topics such as migration, asy-

lum and visa policy. The Programme was criticized for its restrictive security approach, to the detriment of the protection of human rights.

Of particular concern is the treatment of child migrants and minor asylum-seekers, who are especially vulnerable to human rights abuses, particularly if they are unaccompanied when crossing borders. In October 2009, Human Rights Watch (HRW) raised concerns over France's treatment of the 1,000 unaccompanied migrant children who arrived in Paris by plane in 2008 and were detained in transit zones, where they were denied rights granted to other migrant children in France. Greece, which has long been criticized for its migration policies and for conditions in its detention centres, planned to grant citizenship to some 200,000 migrant children but also to send thousands of detainees away. In the UK, a medical report was published which revealed the serious physical and mental health problems of children who are asylum-seekers and are held in British detention centres.

Member states have introduced a series of new measures with the stated aim of better integrating their migrant populations. In 2009, the EU launched its integration portal and platform for member states to exchange good practices and views, and to act together on integration issues. In reality, however, some countries have been strongly criticized for introducing integration measures that risk being discriminatory and appear intended to control immigration. In 2009 the UK Borders, Citizenship and Immigration Act of 2009 introduced the concept of 'earned citizenship', whereby migrants are encouraged to undertake voluntary service to reduce the time it takes to gain citizenship. It also created a new category of 'temporary leave to remain', with restricted access to public services and benefits. The Act was criticized, among other things, for not addressing the detention of asylum-seeking children.

In October 2009, Jorge Bustamante, the UN Special Rapporteur on the human rights of migrants, urged states to take a 'serious and in-depth approach' to tackle racism, xenophobia and related forms of intolerance, which, he noted, persist and impact seriously on the lives of millions of migrants every day. Hate crimes against ethnic and religious minorities and migrants continue to be a serious problem throughout Europe. The Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions

and Human Rights (ODIHR) launched a report on the occasion of International Tolerance Day, drawing attention to the numerous instances of intimidation, threats, vandalism, assault, arson and murder committed against minorities in Europe. The CoE Commission against Racism and Intolerance (ECRI) issued a series of country reports examining racism and intolerance. Noting positive developments in Bulgaria in terms of a strengthened institutional framework against racism and discrimination, ECRI warned that the situation of Roma and asylum-seekers remained worrying, and that the response of the justice system to allegations of racist or discriminatory behaviour should be improved. Problems with the implementation of existing legislation prohibiting discrimination against migrants and asylum-seekers, as well as racist or xenophobic overtones in political discourse, were noted in Belgium, Germany, Hungary, Norway and Slovakia.

Protection of national minorities' languages in Slovakia came under international scrutiny after the Slovak government introduced amendments to the Law on the State Language that was due to come into effect on 1 September 2009. The proposals established fines of up to 5,000 euros for using minority languages in public services if the minority in question forms less than 20 per cent of the local population. The amendments stirred up tensions between the Slovak and Hungarian governments, and tens of thousands of the half million ethnic Hungarians living in Slovakia gathered to protest. Knut Vollebaek, the OSCE High Commissioner on National Minorities, mediated between the Hungarian and Slovakian governments to ensure that, while the Slovak government takes steps to preserve the state language, the linguistic rights of national minorities are also respected. Vollebaek issued a statement after the adoption of the law's implementation principles on 4 January 2010, stating that he will closely monitor the implementation of the law.

Institutional racism remains a major concern. In the UK, 10 years after the Stephen Lawrence inquiry that established evidence of institutional racism in the police, an independent review by the Runnymede Trust, a London-based race equality think-tank, concluded that institutional racism within the police still persists. In Northern Ireland, the family of an Asian man who was killed five years ago accused the Public Prosecutors Service of insti-

tutional racism. In Austria, Amnesty International (AI) accused the police and criminal justice system of being guilty of racial profiling, in particular that there is a widespread assumption that persons belonging to ethnic minorities are perpetrators rather than victims of crime. In Malmö, Sweden, over 100 demonstrators marched in protest against police racism in March 2009.

Hate speech is spreading on the streets of Europe and on the internet. In television adverts, the Czech National Party campaigned with the slogan, 'Final solution of the Gypsy question', evoking the rhetoric of the Third Reich. Also in the Czech Republic, neo-Nazis invited David Duke, former leader of the Ku Klux Klan in the United States, to give lectures in Prague and Brno. He was arrested on his arrival in the country in April 2009 on charges of denying the Holocaust, a crime punishable by up to three years' imprisonment in the Czech Republic.

In its 2009 country report on Belgium, ECRI noted with concern the persistence of racist, anti-Semitic, Islamophobic and xenophobic discourse on the internet. The Chair of the Danish Nazi organization, the National Socialist Movement in Denmark (DNSB), uses Facebook, the online social networking website, to recruit members to his organization. 'Some of the newest technologies are being used to peddle some of the oldest fears,' said UN Secretary-General Ban Ki-moon in June 2009, stating that everyone has a role to play in eliminating cyber-hate.

Racist violence, whether it is physical violence, vandalism or damage to property, is an everyday reality for Europe's ethnic, religious and linguistic minorities. The November 2008 EU Framework Decision on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law requires governments to challenge and counter racist crimes through an effective transposition and implementation of the Framework Decision into national law. The Framework Decision encourages EU member states to amend their criminal legislation to punish the act of assistance in racist or xenophobic activities, and to consider racist or xenophobic motivation as an aggravating factor in the determination of penalties by the courts. Some countries, like Finland for example, have started to compile data and statistics on hate crimes, which are not recognized as a separate category in Finnish law (although racist

motivation has been recognized as an aggravating circumstance in criminal cases since 2004). Once transposed into national laws and implemented, the Framework Decision may remedy inconsistencies in EU member states' criminal law provisions on racism and xenophobia.

The draft directive prohibiting discrimination on the grounds of religion or belief, age, disability and sexual orientation outside the employment sphere was presented by the European Commission in 2008 and was being debated by member states during 2009. In April 2009, the European Parliament backed the proposal and called for multiple discrimination to be introduced into the text. This is not likely to happen, as many member states still face problems with the transposition of the directives adopted in 2000: the Race Equality Directive and the Employment Equality Directive. As the European Commission launched infringement proceedings against governments for their failure to take the necessary steps, the Czech Republic could have been subjected to high EU fines since it passed the Anti-Discrimination Act only in 2009.

Following the ruling of the European Court of Justice (ECJ) in the Belgian case *Centrum voor Gelijkheid van Kansen en voor Racismebestrijding v. Firma Feryn* in 2008 – in which the ECJ established that a firm that had publicly stated that it would not recruit employees of a certain ethnic origin was in breach of the principle of equal treatment in the labour market – the Labour Court of Brussels issued a judgment in August 2009 reiterating the same principle. The Labour Court ordered the abolition of Feryn's discriminatory recruitment criteria and the publication of the judgment in four widely published Belgian newspapers.

New approaches for the protection of human rights in Europe were established by the entry into force of the Treaty of Lisbon on 1 December 2009 and by the appointment of a new EU Commissioner for Justice, Fundamental Rights and Citizenship. The Lisbon Treaty establishes a core set of values of dignity, equality, tolerance, justice and solidarity, which were not explicitly mentioned in previous treaties and which the European institutions have to take into account when formulating policies and legislation. The Lisbon Treaty introduces the European Charter of Fundamental Rights into EU primary law as a legally binding body of rights and values. A further substantial ele-

ment concerning strengthened fundamental rights protection lies in the accession of the EU to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as provided for in the Lisbon Treaty. Accession to the ECHR means that, while upholding EU law, the ECJ would be able to apply the ECHR directly. Moreover, the EU and its institutions can be made accountable to the European Court of Human Rights (ECtHR) on rights and obligations arising under the Convention.

The new Treaty and the Charter are significant from a minority rights standpoint. They establish that the rights of persons belonging to minorities should be respected and that the EU should respect cultural, religious and linguistic diversity. Article 21 of the Charter widens the list of prohibited grounds of discrimination, which now include, 'sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation'. The enforceable nature of the rights contained in the Charter means that individuals and NGOs will be able to hold European institutions accountable for breaches. There are EU member states which have yet to ratify the CoE's Framework Convention for the Protection of National Minorities (FCNM), namely Belgium, Greece, Luxembourg and France (which has not signed); in these countries, the provisions of the Charter can help to ensure more effective minority rights policy and practice. The same holds true for Turkey, via its EU accession process. However, with regard to Poland and the UK, which insisted on opt-out clauses, the Charter will not create any justiciable rights.

#### Roma

In the absence of precise data, the European Roma community is widely estimated to comprise more than 10 million people and constitutes the biggest single minority group in the EU. The Roma community is composed of several groups and sub-groups distinguished by language, ethno-cultural identity, religion, way of life, history of migration and legal status. These differences impact strongly on their standing and opportunities in the wider society, but most Roma suffer from the same deep-rooted discrimination and segregation in the fields of education, employment, health care and housing,

## Growing religious intolerance in Europe

In the second half of 2009, the Swiss country town of Langenthal became the focus of international attention following a campaign, backed by the ultra-conservative Swiss People's Party (SVP), to ban all minarets from mosques in Switzerland. On the grounds that minarets symbolize 'Islamic power' and thus represent ideological opposition to the country's Constitution, members of two parties initiated a national referendum asking the Swiss electorate whether they wished to add the sentence, 'The construction of minarets is forbidden', to Article 72 of the country's Constitution. The referendum was held on 29 November 2009; 57 per cent of those participating backed the ban, although it may be overturned by the Swiss Supreme Court or the ECtHR. The ban may be put to the test by a mosque construction project that is already pending in Langenthal.

The vote has been condemned by human rights groups, including Minority Rights Group International (MRG), warning that the ban violates both the right of Muslims in Switzerland to manifest their religion and the prohibition of discrimination on the grounds of religious belief, as set out in international human rights instruments. The UN High Commissioner for Human Rights, Navi Pillay, spoke out against the Swiss minarets ban in December 2009. Already, in October 2009, the UN Human Rights Committee expressed concerns about both the referendum initiative and the discriminatory advertising campaign which accompanied it, depicting a *burqa*-clad woman against a background of threatening, missile-like minarets.

The Swiss case is not a rare or isolated example of rising Islamophobia and anti-Semitism in Europe. In May 2009, ultra right-wing groups held an 'anti-Islam' rally to oppose the building of a large new mosque in Cologne, Germany. This was countered by a peaceful demonstration by church groups, the Green Party, trade unions and anti-racism organizations. After the authorities in Denmark's capital city Copenhagen approved the country's first purpose-built mosque, the extreme-right Danish People's Party launched an anti-mosque campaign in September 2009. Full-page advertisements claiming that the new mosque would be funded by the 'terror regime in Iran' were published in several daily papers.

In Athens, Greece, the only capital city in Europe without a licensed mosque or cemetery to serve its Muslim population, a shop used as a Muslim prayer centre was attacked with firebombs in May 2009. Five persons were injured. The attack came a day after the police clashed with more than 1,000 Muslim demonstrators, protesting that a police officer had reportedly desecrated a copy of the Qur'an during an identity check.

A mosque in France was set on fire in the Rhone region in December 2009, only two weeks after the desecration of Muslim graves in the military cemetery of Arras. According to a recent survey conducted in France, the Swiss ban has contributed to rising tensions concerning Islam in the country, where 41 per cent of interviewees are opposed to the construction of Muslim places of worship as opposed to 22 per cent in 2001.

In Belgium, a 2009 survey undertaken by the Instituut voor Sociaal en Politiek Opinieonderzoek (Ispo) at the Leuven Catholic University (Katholieke Universiteit Leuven) showed similarly negative perceptions, with nearly one Flemish person in two having a negative opinion of Muslims and Islam: 48 per cent of Flemish people believe the values of Islam are a threat to Europe and 37 per cent believe that most Muslims do not respect European culture and way of life.

These survey results and the apparent negative public opinion against Muslim minorities



and Islam should be viewed in light of a recently published Gallup study on the level of integration and exclusion of Muslim communities in France, Germany and the UK. France has the largest

**Above:** A controversial poster in a Zurich train station calls for a ban on minarets in Switzerland. The poster was brought out by a right-wing political party. *Mark Henley/Panos.*

Muslim population in Europe – approximately 5 million people (most of whom hold French nationality). The study shows that, like the just over 2 million Muslims in the UK and approximately 3 million Muslims in Germany, French Muslims identify with their country and support its values and institutions. It also found that patriotism is shared across religious lines, as the majority of respondents see no contradiction between religious practice and identification with their respective countries and their institutions.

Nonetheless, a new report examining discrimination against Muslims in the EU, conducted by the EU's FRA, confirms persistent Islamophobia across Europe. According to the report, 1 in 3 Muslim respondents were discriminated against and 11 per cent were victims of racially motivated 'in-person crime' (assault, threat or serious harassment) at least once in the previous 12 months. The highest levels of discrimination occurred in employment and in private services. Discrimination, harassment and racist crime remain grossly under-reported, mainly because of lack of confidence that the police would be able to do anything.

FRA Director Morten Kjaerum also highlighted the growing number of anti-Semitic incidents in a report that revealed new data on incidents against the Jewish community in Europe. He stated that:

*'The Agency's research shows that during 2007 and most of 2008, the number of anti-Semitic incidents in the EU declined, but that it has been on the rise again since December of 2008 ... this rise could partly be affected by the situation in the Middle East, as well as by the global financial crisis.'*

Concerns that Israel's invasion of the Gaza strip in December 2008 would spark anti-Semitic violence against Jews in a number of European cities, as well as other public expressions of anti-Jewish attitudes, were expressed by human rights groups. These fears were confirmed by a series of violent attacks in a number of countries in the aftermath of the invasion: physical assaults on Jews and attacks on synagogues have been reported in Belgium, Denmark,

France, Sweden and the UK during 2009. In France, two firebombs, intended for a synagogue in an ethnically mixed north Paris neighbourhood, hit the façade and shattered the windows of a nearby kosher restaurant on 2 January 2009.

In a report published in September 2009, the ADL examined a rise in anti-Semitic criticism in Spain following Israel's three-week military operation in Gaza, including the publication of anti-Semitic cartoons and articles in mainstream media.

A survey conducted in Austria, France, Germany, Hungary, Poland, Spain and the UK by the ADL also points to the alarming trend of blaming Jews in the financial industry for the current global economic crisis. Nearly one-third of respondents blame Jews in the banking sector for the current economic crisis. A similar proportion believe that Jews have 'too much power' in business and finance and are not loyal to their country.

In the meantime, the debate on allowing the wearing of religious symbols in public areas and on reconciling freedom of thought, conscience, religion or belief with other fundamental rights such as freedom of expression, freedom of association and peaceful assembly, respect for private and family life, the prohibition of discrimination or the right to education continues in legislatures and in courtrooms. In November 2009, the ECtHR ruled against the display of crucifixes in Italian classrooms, on the grounds that it violated the child's right to freedom of religion and the right of parents to educate their children in line with their convictions. The Court concluded that there had been a violation of the right to education as contained in Article 2 of Protocol No. 1 to the ECHR, and a breach of freedom of conviction and religion as also protected by the ECHR. The Court's decision sparked anger in the largely Catholic country and it has since been appealed.

Striking a fair balance between different rights in a multicultural context is a challenge also faced by the EU as the proposal for a new anti-discrimination directive is debated. The new directive seeks to outlaw discrimination on the grounds of religion or belief, disability, age and sexual orientation in the fields of health care, social protection and benefits,

education, and access to goods and services, including housing. The main political issues surrounding the proposal are, on the one hand, whether the EU enjoys the necessary legal competence to legislate in these areas – some governments, like that of Germany for example, question the EU's powers to legislate on topics such as education, health care and social protection in the framework of the new proposal. On the other hand, there is the balance to be found between the interests of individuals, as members of a faith community, to have their right to manifest their religion or their right to education be respected, and a possible general public interest, or the rights and interests of others.

Human rights NGOs, such as the European Network Against Racism (ENAR), which advocates for the rights of religious minorities, argue that on the question of balancing religion or belief in the public sphere and access to education on the grounds of religion or belief, the discretion of the member state must be exercised with full respect for all fundamental human rights and cannot lead to the denial of the right to education. In this regard, the ECHR and the case law of the ECtHR provide guidance, setting out that everyone has the right to freedom of thought, conscience and religion or belief in teaching, worship, practice and observance. Restrictions on the wearing of religious clothing and symbols should reflect a general approach which is neutral and impartial between all forms of religion or belief, and is compatible with the principles of respect and the need to foster tolerance and pluralism.

The continuing debate on the question of the place of religion in public life demonstrates the sensitivity around the issue in an increasingly multicultural Europe. Education systems and schools are directly concerned with the issue and there is no unanimity, not only over the presence and wearing of religious symbols in schools but also over the status to be given to teaching about religions, particularly minority religions, such as Islam or Judaism. In Antwerp, in the Flemish region of Belgium, 60 Muslim girls dropped out of school after the decision by a school to introduce a ban on headscarves that rapidly led to a general blanket ban

in all schools of the region. On behalf of the girls, a Belgian feminist group (Baas Over Eigen Hoofd – BOEH, Boss of my own head) filed a case against the decision with the Council of State, the highest administrative court in Belgium in September 2009. Media reported that the Moroccan community was now planning to fund its own schools. Mohamad Chakkar, president of the Federation of Moroccan Associations, said, 'Research has shown that the education gap between immigrant and non-immigrants students in Flanders is the widest in Europe.' He also expressed dismay over the speed with which the ban had been decided.

Meanwhile, international organizations and NGOs are supporting communities in their efforts to build tolerance, including human rights education and other initiatives aimed at changing discriminatory and exclusionary attitudes. The OSCE created a website called 'The Tolerance and Non-Discrimination Information System', which provides a rich source of information on issues relating to religious and other forms of intolerance, including legislative initiatives, international standards and detailed country information.

### **The rise of the far right**

Right-wing radicalism and the spread of xenophobic and extremist attitudes towards ethnic, religious and linguistic minorities is an issue confronting the whole of Europe. Contemporary forms of extreme right-wing ideologies have gained momentum as part of a backlash against the rapid changes induced by globalization and other cultural and social shifts in post-war Europe. Pursuing strategies playing on (and encouraging) growing anxieties in an increasingly pluralistic Europe, political parties and movements have emerged that are propagating racism and intolerance against the 'other'. These movements have proved adept at hiding behind advocacy of free speech and selling claims that supposedly homogeneous majority cultures are in need of protection.

A study undertaken by the private, non-profit organization, Bertelsmann Stiftung, on the radical right in Europe argues that the face of today's far-right is changing. Instead of an old-fashioned

'classical' biological racism, the new 'populist' right embraces an ideology comprising ethnocentric nationalism with an element of religion-based exclusionism. Aiming to establish themselves in mainstream political arenas at the national and European levels, ultra right-wing populist parties justify their anti-immigration, anti-Semitic and Islamophobic rhetoric not by arguing openly for the superiority of the white race but by stoking fears that ethnic minorities, immigrants, Muslims, homosexuals and others are a threat to the integrity of the national community and will destroy the achievements of modern societies. The economic crisis has boosted the popularity of populist nationalist organizations that feed the resentment towards minorities, blaming them for economic and social problems reinforced by the recession. Openly racist and militant right-wing extremists are still present, of course. But the shift in argument and style from the classical racist discourse proved successful in the 2009 European elections, which indicated substantial support for far-right populist parties in many EU member states.

Despite declines in some member states, such as Belgium, France and Poland, far-right parties gained European Parliament seats in a number of countries. In Austria, the Freedom Party (FPÖ) won two seats, the Dutch anti-Islam and anti-immigration Freedom Party of Geert Wilders (PVV) sent four representatives to the European Parliament, and Italy's Northern League has more than doubled its representation from four to nine members of the European Parliament. Two other right-wing parties (the Alleanza Nazionale, formerly led by Gianfranco Fini, and Alessandra Mussolini's Social Action) merged with Italian Prime Minister Silvio Berlusconi's People of Freedom Party and are now represented in the biggest European-level centre-right party, the European People's Party (EPP). With no seats in the previous European Parliament, the BNP and the Hungarian far-right Jobbik made significant breakthroughs winning two and three seats respectively. Denmark, Greece, Romania and Slovakia also sent far-right representatives to the European Parliament.

In addition to a centre-right majority (the centre-right EPP won 264 seats as opposed to the 184

seats of the socialist Progressive Alliance of Socialists and Democrats), the new European Parliament is much more fragmented, with new anti-EU groups, such as the European Conservatives and Reformists Group and the hard-right Europe of Freedom and Democracy group, made up of anti-immigration and xenophobic parties, such as the Italian Lega Nord (Northern League), the Danish People's Party, the True Finns Party, the Mouvement pour la France and UKIP. In October 2009, Hungary's Jobbik and the BNP cobbled together a further ultra-right pan-European grouping, called the Alliance of European Nationalist Movements – including France's Front National, Italy's Fiamma Tricolore, Sweden's National Democrats and Belgium's Walloon extremists, also called the Front National – but failed to get public funding.

The gains made by right-wing populists in the European Parliament signal a dangerous development. By adapting their rhetoric to bypass national bans on ultra-right views (and the Charter of European Parties for a Non-Racist Society, signed by the European Parliament in 2001), they have gained considerable support in many countries. Footholds in the European Parliament and at the national parliamentary level allow these populist right-wing parties to shift formerly far-right ideas (on immigration, for example) into the mainstream. In Austria and the Czech Republic, racism watchdogs and political analysts have pointed to an increase in crime related to extremism, which they believe is connected to the growing number of supporters of far-right movements. They warn that mainstream political parties must change their approach. Sonya Ferker from the ZARA anti-racism organization in Austria, warned that political debate on immigration, 'is entrenching polarization and producing an "us and them" view on immigration'.

Illustrative of the efforts of far-right parties to move into the mainstream is the merger in Italy in 2009 of the National Alliance (Alleanza Nazionale) and Social Action with Prime Minister Silvio Berlusconi's People of Freedom Party. On 7 June 2009, when (as in most countries) the European, council and provincial elections were held at the

same time, the Italian radical right-wing Northern League achieved a major victory in the wealthiest parts of the country, such as the Veneto and northern Lombardy. The Northern League promotes a hard-line and xenophobic immigration policy. In this political climate, it is not surprising that the Italian parliament has passed the toughest immigration law in Europe and also discussed introducing a ban on the *burqa*. A bill was introduced in October 2009 but not debated by the parliament before the end of 2009.

Far-right parties in other parts of Europe also have parliamentary ambitions. According to a new opinion poll, an increasing number of Swedes would help the xenophobic Sweden Democrats to win their first-ever seat in the Swedish parliament, the Riksdag.

Hungary's radical nationalist party, Jobbik (Jobbik Magyarorszagert Mozgalom – Movement for a Better Hungary) has already gained sufficient support to cross the 5 per cent threshold for representation in parliament. Jobbik blames Jews and Roma for the social and economic problems facing Hungary post-transition and post-EU accession. It has also coined the term 'Gypsy crime' to denote certain types of crime supposedly committed exclusively by Roma. More worrying was Jobbik's cooperation agreement with TMRSZ, a police trade union, although this has since attracted criticism from, among others, the Hungarian prosecutors' office. The authorities have also attempted to crack down on the banned Hungarian Guard (Magyar Garda), a pool of volunteer militia created by Jobbik which draws on Nazi-style symbols. Nevertheless, approximately 15 per cent of Hungarians voted for Jobbik in the European Parliament elections in 2009, and a survey last year concerning attitudes towards extremist movements showed 10 per cent public support for the Hungarian Guard.

The announcement by Jobbik that it was setting up a London branch, the British Jobbik Society, in order to strengthen links with the BNP, stoked fears about the reach of the far right into the UK. An expert on community relations, who led the government review into the country's worst race riots

in 2001, said that far-right militants are becoming more sophisticated and, unless politicians challenge their message head on, a repeat of those incidents could be provoked. Groups like the anti-Islamist English Defence League and the Aryan Martyrs' Brigade made headlines when issuing threats, including a death warrant sent by the latter to the secretary of Unite Against Fascism, 'for crimes against all loyal white patriots and British nationalists'. Politicians too have expressed concerns after the Stop Islamization of Europe group confronted around 1,000 opponents outside a mosque in north London. The Communities Secretary said that extremists are using tactics that echo those of the 1930s British fascists.

In a move to increase pressure on right-wing radicalism, the German Interior Minister banned a far-right youth organization, the Heimattreue Deutsche Jugend (Patriotic German Youth), for disseminating its Nazi propaganda to young people. The organization was said to have close links to the National Democratic Party (NDP), Germany's main far-right nationalist party, which also supports the annual neo-Nazi 'mourning march' on 14 February in Dresden. On this day, right-wing extremists from all over Europe gather to commemorate the fire-bombing of the city by the Allied forces during the Second World War. The organization United Against Racism and the local platform Geh Denken called for international support to end acceptance of this annual neo-Nazi demonstration; 10,000 supporters protested against the march.

While anti-immigrant, xenophobic and nationalist extreme right parties and movements are establishing themselves in Europe, minorities are still under-represented in politics, government and public life. In the last weeks of 2009, an ongoing discussion in Bulgaria on broadcasting Turkish news on the state television channel led Prime Minister Boyko Borisov, the leader of the centre-right party GERB, to announce the party's support for a national referendum on the issue. The suggestion was initiated by the nationalist party ATAKA (The Attack). There are approximately 800,000 Turks in Bulgaria, and state television has been broadcasting

10 minutes' news in Turkish every evening since the 1990s.

At the end of 2009, the Constitutional Court in Turkey banned the pro-Kurdish Democratic Society Party (DTP) and 37 of its members from politics for five years. In its decision, the Court's eleven members agreed unanimously that the DTP had links to terrorist activities. Many national and international human rights organizations and regional institutions, such as CoE and the EU, criticized the decision, as the party had not only been a channel for Kurdish voices but also promoted gender equality and constitutional rights. Besides, the decision could run the risk of harming the peace process in Turkey as it coincided with a new 'Kurdish Initiative Programme'.

In Italy, the first black mayor in the country is a member of the anti-immigration Northern League party. Sandy Cane, an Italian-American became the mayor of Viggiu, a town of 5,000 near Milan. The UK's *Independent* newspaper quoted Cane, who voted for US President Barack Obama in the United States and sees no contradiction in a black woman running for an anti-immigrant party, saying, 'To tolerate illegal immigration above all harms those who enter our country with the desire to work and integrate themselves and to have a normal life.' Italian human rights activists just nodded in resignation as this statement was in line with so much else that is xenophobic. There were media reports in January 2009 that the kebab had become the new target of a Northern League campaign against 'ethnic food' in northern Italy. The drive to make Italians eat Italian actually led to a ban on the opening of any new kebab and ethnic food outlets. The campaign was labelled 'gastronomic racism' by the opposition and by leading chefs. Media noted some confusion over what actually counts as 'ethnic' cooking, given that Sicilian cuisine is influenced by Arab cuisine. If it used French flavours, it would presumably survive the Italian 'culinary ethnic cleansing'. ■

and access to goods and services. They face growing anti-Roma attitudes across Europe.

The different legal statuses of Roma minority groups add to their ambiguous place in the broader national communities, as it differs both within and between countries. Depending on the period of migration of the groups, and on the level of official recognition of them as a national or ethnic minority, some long-established communities are citizens of the country where they live and are entitled to rights granted to recognized minorities. However, in others, such as Denmark, Roma are not recognized as a minority group. Newly arrived groups are sometimes considered refugees or asylum-seekers, or even illegal immigrants. A large number of Roma are nationals of the countries that joined the EU in 2004 and 2007, and, as such, are entitled to the right of free movement, but, due to restrictions that some countries, such as the UK, introduced for Romanian and Bulgarian nationals, lack full residence and employment rights.

Being a minority everywhere and widely dispersed across Europe and beyond it, but lacking a kin state, the Roma population occupies a peculiar position, characterized by political and social marginalization. The Roma are not recognized as a national or ethnic minority in many countries and are thus at a disadvantage compared to other historical national minorities, whose minority rights are protected by domestic legislation as well as international treaties and conventions. The lack of authorized legal status is a fundamental issue, as it strongly impacts on possibilities to participate in public and political life as well as accessing social and economic rights. Acknowledging the importance of this issue, the European Parliament, in its 2005 Resolution on the Situation of the Roma in the European Union, called on EU institutions, member states and candidate countries to consider recognizing the Roma as a European minority. In 2009, the CoE Commissioner for Human Rights Thomas Hammarberg also called on states to 'employ all possible means to end the statelessness of Roma and provide them with a nationality'.

The situation of Roma EU citizens migrating to and settling in other EU member states was also a key theme addressed at an international conference organized jointly by the FRA, the Council of Europe and the OSCE in November 2009. The FRA presented a report which detailed how many

Roma EU citizens who exercise their right to free movement and settle in another EU member state in search of better living conditions continue to experience racism, discrimination and exclusion. Barriers remain to their enjoyment of key civil, political, economic and social rights, including the right to vote in local and European elections, and access to social protection, health care and public housing. For example, the Finnish capital Helsinki refused to offer housing or health services to Roma from Romania, stating that social problems should have been solved in their home country.

In Italy, 11 months after the government adopted its 'declaration of the state of emergency with regard to settlements of nomad communities' in 2008, the authorities engaged in coercive documentation of Roma and Sinti in numerous camps, taking photographs of them and fingerprinting them, and using the information gathered to deport those who could not prove their right to live in Italy. Human rights groups urged the European Commission to start infringement proceedings addressing Italy's violation of the fundamental rights of Roma and Sinti enshrined in the EU Race Equality Directive and the EU Data Protection Directive. By the time of writing, no official response had been received to the letter sent to European Commissioner for Justice, Freedom and Security Jacques Barrot and European Commissioner for Employment, Social Affairs and Equal Opportunity Vladimir Spidla.

The FRA report identified a tendency towards, 'a more general "Roma response" covering Roma nationals, Roma citizens of other EU countries and Roma third country nationals'. Such a policy, which categorizes all Roma together regardless of their legal status, risks undermining their citizenship rights, infringing their enjoyment of human rights, and putting Roma communities in a vulnerable position. The FRA report recommends that the EU and its member states adopt targeted policies based on 'integrated rights- and equality-based standards promoting social cohesion and delivering the promise of *civis Europaeus sum*'.

Following the first European Roma Summit in 2008, the EU Council adopted a set of 'Common Basic Principles for Roma Integration' in June 2009, aiming at promoting the full inclusion of Roma, and making use of a policy-coordination and best practice-sharing mechanism, the Integrated European Platform on Roma Inclusion, which was

formally inaugurated in April 2009. The Platform held its second meeting, dedicated to education, in September 2009. The EU Roma Policy Coalition, which was set up by human rights NGOs to advocate for Roma rights and inclusion at the EU level, was highly critical of the mandate and structure of the Platform, expressing concern over the lack of key targets and a coherent structure for the process itself, which would be necessary to achieve a strategic EU approach to Roma issues.

The 2008 Roma Summit clearly identified the EU member states and their governments as the main actors responsible for improving the situation of Roma in the EU. It remains to be seen whether the Spanish Presidency of the EU will be able to achieve real progress upon the occasion of the Second EU Roma Summit, which will be held on 8 April 2010, International Roma Day. While social policy belongs to the exclusive competence of the EU member states, and thus does not fall within the scope of EU harmonization, key international organizations and NGOs are keen to see the EU assume a stronger role in promoting Roma participation and consultation in decision-making processes.

Referring to the FCNM as representing 'an emerging international consensus' on protecting minorities, the ECtHR reinforced the principle of non-discrimination in its decision in the case of *Munoz Diaz vs. Spain*. The case involved a woman of Roma origin whose marriage was not recognized by the Spanish authorities as it had been held according to Roma rites. The court underscored that, 'cultural diversity is of value to the whole community'.

'Neglect is not an option', said the OSCE Contact Point for Roma and Sinti Issues at a United States Helsinki Commission meeting in June 2009, warning that if governments do not take urgent steps, tensions between majority populations and Roma communities will increase, with the risk of further violence targeted at Sinti and Roma.

Hammarberg also urged European governments to adopt more effective and inclusive policies for the Roma, stating that 'Anti-Gypsyism continues to be a major human rights problem in Europe.'

In fact, 2009 was marked by a sickening spiral of violence against Roma across Europe. The abuse of six Roma boys, aged between 10 and 16 years, by police officers in the Slovakian town of Kosice on

**Below:** Roma girls from Sajókaza. *Sándor Naske.*

21 March 2009, provoked an international outcry. The European Roma Rights Centre (ERRC) and AI called on the government of Slovakia to ensure that an unbiased investigation is conducted and that the perpetrators are brought to justice. The boys were forced to hit and kiss each other and strip naked while being filmed by the officers. It has also been alleged that the police set dogs loose on the boys and that two boys were bitten.

The Kosice incident is just one of a string of attacks against the Roma community. The violence is reinforced by openly racist public discourse that scapegoats Roma, not only by extremist right-wing parties and movements, but also sometimes by mainstream politicians and public figures. On 2 April 2009, Máté Szabó, Hungarian Parliamentary Commissioner for Civil Rights, stated in an interview with an online news portal that ‘criminality categorized on an ethnic basis’ – so-called ‘Gypsy crime’ – exists, and identified it as a type of crime

performed to earn a living. He also referred to Roma as being, ‘a collectivist, almost tribal-level social group’. A group of Hungarian human rights defenders (the Hungarian Helsinki Committee, the Legal Defence Bureau for National and Ethnic Minorities, the Chance for Children Foundation, the Roma Civil Rights Foundation) and the ERRC denounced these statements as irreconcilable with the prohibition of discrimination as defined by the Constitution.

In Hungary, anti-Roma sentiment and violence escalated, taking eight lives and leaving dozens injured in a period of 18 months, between January 2008 and June 2009. In one of the attacks, a Roma man and his 5-year-old son were shot dead as they were trying to escape from their house, which was set on fire by Molotov cocktails moments before. After a Roma woman was shot dead and her daughter seriously injured at the beginning of August 2009, the police asserted that the incident was related to a series of attacks targeting the Roma; four suspects were later charged with the assaults

and killings. Far-right groups have denied any links to the attacks, but emphasize the need to fight ‘Gypsy crime’. During 2009, the far-right Magyar Garda (Hungarian Guard), set up by the anti-Roma and nationalist Jobbik party, staged several public events in towns and villages with large Roma communities, who started to form self-defence groups. In the town of Sajobabony, local Roma clashed with supporters of Jobbik and Magyar Garda after one such event.

Multiple grounds of discrimination confronted by Roma women continue to be a cause of grave concern. According to a letter sent to Hammarberg by a coalition of human rights organizations in February 2009, forced sterilization continues in the Czech Republic, Hungary and Slovakia, with cases reported as recently as last year. This was confirmed by the ECtHR, which ruled on 28 April 2009 that Slovakia had violated the rights of eight Roma women by denying them full access to their medical records, which they had sought in order to prove that they had been forcibly sterilized after giving birth.

The Czech government announced that it regretted the forced sterilization of Roma women in the past. Rights activists are now hoping that Slovakia will follow suit. From the 1970s until 1990, the Czechoslovak government systematically sterilized Roma women in order to reduce the birth rate of Roma. The Czech government decided that a series of measures would be undertaken by the end of 2009 to ensure that such violations do not occur in the future. In Hungary, the Ministry of Social Affairs and Labour issued a statement promising financial compensation to a Roma woman for sterilization undertaken against her will.

Substandard Roma and Traveller housing remains a major concern across Europe. According to a report issued by the FRA, the overall housing situation of many Roma and Travellers in the EU is dire. Many live in barely habitable dwellings, without basic infrastructure and with poor access to mainstream institutions. Evictions and demolitions of Roma settlements are common across the EU. In Burgas, a Bulgarian Black Sea town, 200 Roma families protested against the planned demolition of their houses, built without planning permission. They created a human chain surrounding their houses but were finally left homeless. Gypsies and Travellers living on one of the UK’s largest unau-

thorized sites, near Wickford in Essex, have also lost their latest battle against eviction.

In Slovakia, a wall is being built between a Roma settlement and the rest of the village of Ostrovany with the agreement of the local authorities, who turned a deaf ear to the claims of the Roma inhabitants of the village who say that the wall will turn their settlement into a zoo.

It hardly comes as a surprise that in the EU Minorities and Discrimination Survey conducted by the FRA, the Roma reported the highest overall levels of being discriminated against of the groups surveyed. According to the report, 1 in 5 Roma were victims of racially motivated personal crime (including assaults, threats and serious harassment) and every second Roma respondent was discriminated against at least once during the 12-month period surveyed.

## Cyprus

The Constitution of Cyprus, which was drawn up in 1960 after the country gained independence for the first time in its history, divided the Cypriot population into two communities and cemented a rigorous bi-communalism between the Greek and Turkish populations on the island. Greek and Turkish were designated as official languages, but after the 1974 division of the country, bi-lingualism in practice ended. Members of the Turkish Cypriot community who stayed in the government-controlled area have not been able to exercise their language rights fully as provided in the Constitution. At the time of independence, members of the island’s recognized three religious minorities, the Armenian Orthodox, Maronite Catholics and Roman Catholics (Latin), had to opt to join one of the two communities for voting purposes and all three chose to belong to the Greek Cypriot community.

These three minority groups were designated as national minorities under the FCNM, which entered into force in 1998. In its third periodic report on the application of the FCNM submitted in April 2009, Cyprus reflected on the Advisory Committee’s opinion regarding the obligation of affiliation to either the Greek or the Turkish Cypriot community imposed on national minorities. It stated that any changes would require constitutional amendment, which ‘would be politically incorrect, if not practically impossible’ in the sensitive political climate of the country.



# Religious minorities and the European Court of Human Rights

*Lucy Claridge discusses ground-breaking legal cases from 2009 and their implications for religious minorities in Europe.*

## Discrimination against minorities and political participation

In a ground-breaking recent case before the European Court of Human Rights (ECtHR), a Bosnian Jew and an ethnic Roma successfully challenged discriminatory provisions within Bosnia's Constitution and electoral laws which deny their right to public participation. The case is the first time that the ECtHR has looked at how to apply relatively recently enacted anti-discrimination provisions of the European Convention on Human Rights (ECHR).

Jakob Finci, a prominent Jew, and Dervo Sejdić, of Roma ethnicity, argued that the country's Constitution and election law are discriminatory in preventing them from running for or being elected to the presidency or upper house of the parliament. In particular, the applicants argued that this discrimination was based solely on the grounds of their race/ethnicity and, in the case of Finci, his religion. MRG represented and advised Finci throughout.

Bosnia's Constitution and electoral law state that only members of the 'Constituent Peoples' – ethnic Serbs, Croats and Bosniaks – are eligible to stand for election to the three-member presidency of the House of Peoples of the Parliamentary Assembly. Those who are not 'Constituent Peoples' – defined

in the Constitution as 'Others' – are denied the right to stand for election to those bodies. This includes national minorities who have lived in Bosnia and Herzegovina for centuries. In the words of Jakob Finci, 'We are simply deprived of the right to take part in elections, we are unable to exercise our ... right, the right to be elected.'

Further, although the case did not specifically address this issue, it is not only minorities throughout Bosnia who are disenfranchised as a result of these arrangements. The House of Peoples has 15 members distributed equally among the three 'Constituent Peoples': five Bosniaks (Bosniaks are recognized as Muslims and the term is distinct from 'Bosnians', which denotes citizens of Bosnia and Herzegovina irrespective of their ethnic origin/religion), five Croats from the Federation of Bosnia and Herzegovina, and five Serbs from the Republika Srpska. Serbs in the Federation of Bosnia and Herzegovina (BiH) and Bosniaks and Croats in the Republika Srpska are therefore also excluded from standing for office.

Bypassing usual procedure, the case was referred directly to the Grand Chamber of the ECtHR and judgment was delivered on 22 December 2009. The Court found Bosnia and Herzegovina to be in breach of Protocol 12 of the ECHR, which provides for the right to equal treatment and non-discrimination, in failing to allow its citizens who are not 'Constituent Peoples' to stand for election to the presidency. The Court also found a violation of Article 14 of the ECHR, which provides for freedom from discrimination, taken in conjunction with Article 3 of Protocol No. 1, which protects free elections to the legislature, as a result of the ineligibility of 'Others' – including national and religious minorities – to stand for election to the House of Peoples.

Of particular importance is the judgment's confirmation that racial and religious discrimination can rarely, if ever, be justified. Referring to previous case law, the Court stated that 'racial discrimination is a particularly egregious kind of discrimination', which 'requires ... special vigilance and a vigorous reaction' and which is not 'capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures'.

The ruling is expected to have huge ramifications in Bosnia and Herzegovina and beyond. If correctly implemented (and at the time of writing, draft amendments to Bosnia's Constitution and election law were being considered by the Parliamentary Assembly, in order to bring these provisions in line with the ECHR in time for elections in October 2010), it will assist in breaking down ethnic and religious divisions in the country, by encouraging political participation and representation, and promoting social cohesion. In addition, the decision offers important protection for religious and ethnic minorities who lack electoral rights in other ECHR states, in providing a legally binding judgment that can be relied upon against their own governments. The case is also highly significant on an international level, as it is the first time that the ECtHR has considered how Protocol 12 of the ECHR should be applied to potentially discriminatory situations. As Jakob Finci recognizes, 'The most important thing is that we can now ensure that all citizens ... will enjoy equal rights.'

## Minorities, religious freedom and the wearing of religious symbols

Accommodating religious diversity within states is an issue of much controversy within Europe and beyond. In fact, Europe has not reached agreement on how states should reconcile freedom of thought, conscience, religion or belief with the rights to freedom of expression, freedom of association, respect for private and family life, the prohibition of discrimination and the right to education. It is therefore not surprising that the extent to which governments can determine and indeed control the wearing of religious symbols and clothing in public areas, for example a headscarf, turban or crucifix, has been continuously tested and challenged both in domestic courts and in the ECtHR. This issue has received most attention in the context of public educational institutions, where there is a perceived need to avoid schools becoming places of religious indoctrination rather than of education, as discussed in two key cases below.

According to Article 9 of the ECHR, everyone has the right to manifest their religion or belief in teaching, worship, practice and observance. This has generally been interpreted by the ECtHR to

include the wearing of religious symbols. Cases include *Moscow Branch of the Salvation Army v. Russia* (Application No. 72881/01, judgment dated 5 October 2006) and *Leyla Sabih v. Turkey* (Application No. 44774/98, judgment dated 10 November 2005). However, there are certain circumstances in which the state can place restrictions on people who wish to wear such symbols.

Article 9 provides that such limits must be prescribed by law, necessary in a democratic society – to protect public interests, including the rights and freedoms of others – and proportionate. In the absence of a common approach to religious diversity in Europe, the ECtHR gives states a broad 'margin of appreciation' in determining what restrictions are in the public interest. In other words, it gives governments a wide and perhaps dangerous discretion to decide the relationship between the role of the state and the role of religion, and also what is appropriate in each domestic context. In this way, states can justify bans on wearing religious symbols in public, and still comply with Article 9 of the ECHR.

In November 2009, the ECtHR issued a contentious ruling, in which it declared that the display of crucifixes in Italian classrooms violated Article 9 of the ECtHR and also Article 2 of Protocol No. 1, which protects the right to education, on the grounds that it is contrary to a parent's right to ensure her child's education and teaching in conformity with her religious and philosophical convictions (*Lautsi v. Italy*, Application No. 30814/06; judgment dated 3 November 2009).

Soile Lautsi, a parent and citizen of both Finland and Italy, had claimed that Italy's administrative law requiring the compulsory display of the crucifix in every state school classroom violated the right of parents to ensure their children's education in conformity with their own religious and philosophical convictions.

In reaching its decision, the Court held that the right to education under Article 2 of Protocol 1 is aimed at safeguarding pluralism and social inclusion in a state's educational system. The right also protects respect for the religious and philosophical convictions of parents. The state must therefore avoid, even indirectly, imposing beliefs on children. The presence of the crucifix

could easily be interpreted by pupils of all ages as a religious sign, and they would feel that they were being educated in a school environment bearing the stamp of a given religion. It concluded that, where the state has an established religion, it has a special duty to protect the religious freedom of others, particularly those in a religious minority.

The judgment has sparked much debate, with widespread condemnation from both Italian politicians and the Vatican, who declared, 'It seems as if the court wanted to ignore the role of Christianity in forming Europe's identity, which was and remains essential.' At the time of writing, a request to refer the case to the Grand Chamber, the Court's highest chamber, is yet to be decided. ■

In September 2009, the Committee of Ministers of the CoE adopted a series of recommendations regarding the application of the European Charter for Regional or Minority Languages, which Cyprus ratified in 2002. Under the Charter, Armenian and Cypriot Maronite Arabic are acknowledged as minority languages. After reviewing the state of minority languages in 2009 the CoE recommended the development of a structured policy for the promotion of Armenian and Cypriot Maronite Arabic, including targeted financial support and teacher training initiatives. Some members of the Roma community speak a mix of Turkish and Kurbetcha, which is not acknowledged as a regional or minority language, however. And the CoE notes that Turkish is in a very similar situation in government-controlled areas, despite its status as being one of the official languages of the country.

The strict bi-communal institutional structure has been criticized by human rights groups advocating for the rights of minorities and migrants living on the island, such as the Nicosia-based KISA – Action for Equality, Support, Anti-racism. They argue that it fails to address the needs of the country's minorities and migrants. As KISA argues, the division of the island in 1974 further alienated the two main communities and consolidated the conviction that ethnic or religious difference is a potential threat. Minorities who had opted for the Greek Cypriot community continue to live in the Turkish part of the island.

A long-standing country of emigration, Cyprus has experienced a rapid transformation into a host country for immigrants. This is due to a number of factors, including the easing of restrictions on crossing the Green Line dividing the northern and southern parts of the country, as well as accession to the EU in 2004. KISA and the 2009 European Social Watch Report on Migrants point out that migration to Cyprus is widely viewed as a temporary phenomenon – that the country is seen as a transit stop for most third-country nationals on their journeys towards other European countries. Hence, migration policies tend to put less emphasis on integrating the growing migrant population, many of whom have settled in Cyprus. Migrants can only stay if they are enrolled in higher education or are working. This leaves many migrants vulnerable to exploitative working conditions.

The *Migrant Cities* study by PRIO Cyprus (the International Peace Research Institution) shows Cypriot society reacting to the presence of migrants with both incidents of racism and xenophobia, and a wider lack of interest, 'a small, extreme, racist minority ... is opposed to the presence of migrants ... [but] the majority simply does not care about the experience, conditions, problems, or joys of migrants in Cyprus and this perpetuates a situation of "living apart" and not "together",' said Olga Demetriou, a project leader at PRIO Cyprus at the launch of the report in 2009.

A police sweep operation carried out in September 2009 in search of illegal immigrants and those responsible for a violent clash between worshippers at the Omeriye mosque a month earlier led to a further deterioration of the relationship between Cypriots and the migrant population. The police were heavily criticized by members of ENAR-Cyprus and KISA for the raids in the old town of Nicosia, which started at 5 a.m. and involved 247 police officers. According to the *Cyprus Mail*, the police alleged that the operation, involving the blockage of six exit points from the old town and house searches, was intended to 'prevent crime, combat illegal immigration and restore the sense of security in the old town'. The raid ended with 150 migrants being taken to police stations for identification; there were 12 arrests in connection with the Omeriye mosque violence and 36 for illegal residence. A number of organizations staged a demonstration on 4 October 2009 to condemn the police operation, which they saw as discriminatory and not

backed up by any statistical evidence regarding a supposed growth of criminal activity among migrants.

## Germany

'Much has been achieved in the fight against racism in Germany over the past few years. Yet much still needs to be done,' concluded Githu Muigai, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance during his 10-day visit to the country in July 2009. In a statement issued in Berlin, the UN Special Rapporteur emphasized that Germany needs to broaden its concept of racism from one associated only with right-wing extremists to one that also encompasses the discrimination and harassment occurring in everyday life, particularly towards migrants. Thus, Germany has to step up its efforts to integrate its migrant population.

The gap in the educational achievements of migrant pupils and of native Germans remains significant and is steadily increasing. Poverty, other socio-economic hurdles, plus a migrant background reduce the educational opportunities of migrant children, and differences remain in place even between children of the same general socio-economic background. At the same time, young people with a migrant background have considerably fewer chances to enter further education and vocational and professional training than their German counterparts. This trend is confirmed by the 2009 country report of the CoE's ECRI, which also notes that some teachers reportedly display discriminatory attitudes in the classroom, in particular towards Turkish and Muslim children.

In 2008, the first court decisions within the context of the General Equal Treatment Act (AGG) were taken. The AGG came into force on 18 August 2006; it implements the EU's equal treatment directives and extends protection against discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation to public employment and a number of private law fields. In 2009, however, ENAR members raised concerns that neither the AGG nor the Federal Anti-Discrimination Agency are providing effective protection for victims of discrimination and that the latter fails to meet its obligations adequately.

In its 2009 report, ECRI noted positive developments, such as a number of government measures to eliminate inequalities or discrimination in the fields

of employment and education, including efforts to promote and foster the linguistic abilities of children. However, ECRI also expressed concerns over some aspects of the AGG, in particular regarding housing. The report confirms human rights groups' concerns about the limited knowledge of potential victims about their rights under the AGG, and emphasizes that the Act's effectiveness is hampered by the two-month time-limit for initiating a complaint. According to the report, the latter issue is compounded by the limited role afforded to NGOs under the law. According to the ECRI 2009 report, the Federal Anti-Discrimination Agency, with its small staff and annual budget, appears to have relatively few resources to carry out its statutory tasks.

Germany's repatriation policies for members of Roma, Ashkalia and Egyptian (RAE) minority communities to Kosovo prompted CoE Commissioner for Human Rights Thomas Hammarberg and the UN High Commissioner for Refugees (UNHCR), as well as minority rights organizations such as MRG and the Kosovo-based Roma and Ashkalia Documentation Centre (RAD), to investigate the state of minorities forcibly returned to Kosovo from Germany. Among the countries that have readmission agreements with Kosovo concerning the forced repatriation of members of the RAE communities to their country of origin (including Austria, Sweden and Switzerland) Germany, with the majority of RAE refugees living in the country, is the biggest sender. From 1999 until the end of August 2009, there were 92,240 voluntary returns and 21,852 forcible returns. The UNHCR confirmed in a report in November 2009 that the situation of minority communities in Kosovo is precarious, and that 'respect for minority rights continues to be the most significant human rights issue in Kosovo in the post-independence era'. The social, political and economic exclusion of Kosovo's minorities is a remaining issue, and after attacks on Roma by Kosovo Albanians in September 2009, the CoE's Committee of Experts on Roma and Travellers called on states to consider granting asylum to members of the Kosovo Roma community. Referring to the UNHCR report and his own repeated visits to Kosovo in March and July 2009, Hammarberg sent a letter to the Chancellor of Germany, Angela Merkel, in December 2009, urging the German government to halt forcible returns, in particular of Roma.

The ultra right-wing remains a serious problem in Germany. 'Germany for Germans!' and similar slogans are frequently heard at rallies all over Germany. Moreover, national socialism appears to have support beyond those who appear in public demonstrations. According to an annual report published in May 2009 by Germany's Federal Office for the Protection of the Constitution, there are nearly 5,000 militant neo-Nazis, while 30,000 Germans consider themselves as having extreme right-wing views.

However, far-right parties have suffered a sharp decline in votes in the 2009 national elections compared to four years ago. The two prominent far-right parties, the National Democratic Party and the German People's Union between them won support from 681,000 voters, well down from the 858,000 who voted for them in 2005 when the parties entered into an electoral pact. The outcome meant that only 1.5 per cent of the 44 million Germans who turned out to vote in 2009 supported the extreme right parties, although in some states, such as Saxony, support for the NDP reached 4 per cent.

Support for Islam to be granted the same legal status as Christianity and other recognized religions is growing in the country and is being actively discussed by the main political parties. The Green Party expressed its support for taking concrete steps in this direction. Interior Minister Wolfgang Schäuble of the Conservative Christian Democratic Union has said that this is his long-term aim, but also stated that Muslim communities are still some way from meeting the requirements that have to be fulfilled under the German Constitution, including the ability to provide teachers to educate children enrolled in state schools about their faith. The creation of the German Islam Conference (DIK) could be an important symbol of change. The goal of the Conference is to ensure better integration of Muslims and to promote inclusive communities by counteracting segregation and preventing extremism.

Two prominent court cases in 2009 helped to highlight racism and hate-motivated crimes. A German man was sentenced to life imprisonment for the brutal murder of a pregnant headscarved Egyptian woman, Marwa El-Sherbini. The killing sparked outrage in Sherbini's home country and led to renewed debates about Islamophobia in Germany.

The trial of the 89-year-old John Demjanjuk, a Ukrainian-born Soviet prisoner of war who joined

the SS as a concentration camp guard during the Second World War, was widely seen as breaking new ground. In the decades following the war, the German authorities prosecuted only top leaders of the Nazi regime for the Holocaust. Guards and others working in the concentration camps were seen as acting under command and thus had limited culpability.

### The Netherlands

Discussions concerning the position of Muslims in the Netherlands featured prominently in the public debate on discrimination and racism during 2009. Islam is frequently portrayed as a threat to Dutch society by politicians and public figures. After the far-right Freedom Party leader Geert Wilders made a controversial film equating Islam with violence and the Qur'an with fascist texts, an Amsterdam court ordered prosecutors to put him on trial. The decision followed numerous complaints by human rights groups and citizens over the prosecution services' refusal to press charges against Wilders, and stated that, 'in a democratic system, hate speech is considered so serious that it is in the general interest to ... draw a clear line'. The court order is notable, as Dutch courts tend to be reluctant to restrict freedom of expression when it concerns statements made by politicians and public figures. Wilders attracted headlines in the UK during 2009, when he was stopped from entering the country. He had been invited by the Eurosceptic UKIP to screen his film, but the then Home Secretary Jacqui Smith banned his entry. The ban was later overturned by a High Court decision, leading to Wilders' visiting the UK in March 2010. He screened the film at the House of Lords, upon UKIP's invitation.

Muslims constitute around 5.2 per cent of the population and are mainly concentrated in larger cities. According to 2008 figures of the Central Bureau of Statistics, there are approximately 373,000 Turks and 335,000 Moroccans; other Muslims come from the country's former colony of Suriname or are asylum-seekers from the Middle East. As the 2009 report of the US Commission on International Religious Freedom (USCIRF 2009) notes, the Turkish government appoints imams for most of the more than 200 Turkish mosques in the Netherlands. The Dutch government provides funding for education in religious schools and other religious institutions. Headscarves are in practice permitted almost everywhere, including in schools. A ban on face-cov-

ering religious clothing was however introduced for teachers, parents and students in educational settings, and also for government officials interacting with the general public. In May 2009, a court ruling also introduced the requirement that female school staff shake hands with males in greeting, even if this goes against their religious affiliation.

While a government report released in 2009 shows that integration of ethnic and religious minorities has improved in the last couple of years, human rights groups and the CoE indicated otherwise. Human rights group Defence for Children International warned that the rights of migrant and refugee children are inadequately guaranteed in the Netherlands, and that those separated from their parents are vulnerable to abuse or ill-informed about their rights.

CoE Commissioner for Human Rights, Thomas Hammarberg, also emphasized that 'policies towards migrants and asylum-seekers require further review' in the country report presented in March 2009. Addressing issues concerning discrimination and intolerance, the rights of the child, anti-terrorism measures and ethnic profiling, the Commissioner recommended that the protection of minority rights be strengthened.

### Russia

With the collapse of the Communist bloc and the emergence of post-Soviet states in the territory of the Former Soviet Union, the Russian Federation has experienced considerable political, economic and social change during the last decades. Growing nationalism, xenophobia, racism and religious intolerance have become increasingly visible. After a steady rise in ethnic violence, official statements concerning hate crime were first made in 2004, when a 9-year-old Tajik girl was killed. According to the Equal Rights Trust, the acting Interior Minister at that time, Rashid Nurgaliyev, admitted that 'acute manifestations of extremism' towards visible minorities existed in the country. Incidents of racial violence were identified as 'extremist crimes' that were threatening the security of Russia. The 2009 National Security Concept of the Russian Federation states that 'ensuring national security includes countering extremist activity by nationalist, religious, ethnic and other organizations and structures directed at disrupting the Russian Federation's unity and territorial integrity and destabilizing the domestic political and social situation in the country'.

In the national report submitted to the UN Universal Periodic Review, the term 'extremist crime' was used again by Russian state authorities, who officially acknowledge the existence and increase of such crimes and provide some statistics. 'Extremist crime in Russia is on the rise. In 2004, 130 extremist acts were carried out; in 2005, 152 were registered, while the figure rose in 2006 to 263 and in 2007 to 356. In the first half of 2008 alone, 250 were registered.' The Moscow-based SOVA Centre for Information and Analysis prefers the term 'hate crimes' and reports that, according to their research, there were 525 victims (of whom 97 died) of racist violence in 2008. The following year, 48 people had been murdered and 253 injured by September as a result of racist attacks. Many violent attacks are reported against members of the Armenian, Jewish, Muslim and non-Russian Orthodox Christian communities.

Comprehensive figures on the actual numbers of racially motivated or xenophobic attacks are hard to establish, as victims and their families may be loath to approach the authorities. However, as AI reports, despite the government's call for harsh punishments for those convicted of such crimes, no comprehensive government plan to combat racism and racial discrimination has been put in place. In 2008, Russian NGOs presented an alternative report to the UN Committee on the Elimination of Racial Discrimination (CERD) that examined Russia's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination. The alternative report confirms that the Russian government has become more active in opposing racist violence and hate speech. For example, the numbers of persons charged with incitement of ethnic hatred has increased, and a number of top officials have acknowledged and condemned ethnically motivated violence and the incitement of racial hatred. Nevertheless, the NGO alternative report points out that, in spite of an increasing prosecution rate for hate crimes, this should be viewed in light of the scale of hate crimes and the amount of racist propaganda being distributed. According to NGO estimates, hate crimes have been growing by about 20 per cent a year and have become increasingly violent, often involving weapons and explosives.

The NGO alternative report criticizes the Russian government's approach towards combating hate crimes, arguing that it is too limited and selective

when suspending or terminating mass media outlets or NGOs that disseminate hate. The report states that this shifts 'the focus of preventing and eliminating discrimination from protection of the individual's rights and dignity to a fight against those whom the state deems its opponents'.

The 2002 Law on Extremism (amended in July 2006) was also mentioned in USCIRF 2009 for its impact on religious minorities, particularly the Muslim community, by allowing the criminalization of a wide spectrum of speech and activities. The law risks encouraging racial and religious discrimination. USCIRF placed Russia on its watch list in 2009. As the report notes, security services tend to treat the leaders of some Islamic groups, and groups termed 'non-traditional', such as the Jehovah's Witnesses, as a security threat.

The Federal List of Extremist Materials is updated four times a year by the government. According to the human rights group Forum 18, in May 2009, there were 367 items on this list of banned publications. While the list of banned texts includes extreme nationalist and anti-Semitic publications, it also comprises Islamic religious texts. Publication of the texts on the list can be punished with a four-year prison term. One problem identified by USCIRF is that even low-level local courts, with little knowledge of religious doctrine, can ban texts, with the result that the ban is enforced throughout Russia.

Although the 1997 legislation concerning religious practice grants protected status to the four founding religions recognized by the state (the Russian Orthodox Church, Buddhism, Islam and Judaism), human rights reports highlight the privileged status accorded to the Russian Orthodox Church, including official arrangements to provide spiritual counselling and conduct religious education. The country's other religious communities, such as Jehovah's Witnesses, Orthodox Old Believers, Protestants, Roman Catholics and others must accept greater government control. In 2009, the Russian government established the Expert Religious Studies Council, which has been criticized for its over-broad mandate. The Council has among its powers the right to investigate religious groups at the time of registration and their written materials.

Increasing discrimination against Russia's approximately 20 million Muslims was also reported by the USCIRF 2009. In parts of the country, for example the regions of Kabardino-Balkaria and Dagestan,

laws exist that ban Wahhabism, a term increasingly used by government officials, journalists and the public to mean Islamic extremism. The Russian NGO Memorial reports that Muslims considered 'overly devout' may be arrested or be 'disappeared', especially in the North Caucasus. Inter-community tensions and anti-Islamic sentiments resulting in discrimination persist after the 2004 school siege in Beslan, North Ossetia, with no intervention by the authorities. Muslim communities face difficulties in opening and maintaining mosques.

According to USCIRF 2009, there are at least 80 Russian-based anti-Semitic websites and approximately 100 small, ultra right-wing newspapers that regularly print anti-Semitic and Islamophobic materials.

### Sweden

In the second half of 2009, Sweden held the Presidency of the EU. The Swedish Presidency was open to working with NGOs in the negotiations on the draft EU Equal Treatment Directive but could not achieve its adoption before the end of its Presidency. The UN High Commissioner for Refugees and other human rights organizations working on protecting the rights of asylum-seekers and migrants called on the Swedish government to reassert the importance of a rights-based approach to migration and border controls within the framework of the 'Stockholm Programme', which was adopted during the Presidency and sets out key priority areas for the EU in the area of justice and home affairs. A key achievement during the Swedish Presidency was the entry into force of the Lisbon Treaty and the establishment of the European Charter of Fundamental Rights as a legally binding document.

Domestically, an important milestone in the protection of minorities was the adoption of the new Discrimination Act by the Swedish Parliament, which entered into force on 1 January 2009. The Act outlaws discrimination based on gender, ethnicity, religion, disability, sexual orientation, gender identity and age. It also established a new watchdog, the Equality Ombudsman, which is headed by Katri Linna, the former Ombudsman against Ethnic Discrimination. The reform streamlines the ombudsman function and gathers four of the previous ombudsman posts into one authority.

According to national population statistics, up to the first quarter of 2009, the largest group who immigrated to Sweden were returning Swedish citi-

## 'They told me I did not deserve to stay in Sweden'

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**For Iraqi refugees fleeing the current conflict, arrival in Sweden can seem like the start of a new life. But many are finding that their difficult journey to the country only ends in official rejection and the risk of being returned. For Iraqis from minority religious and ethnic communities, this is particularly difficult to face. Zeena\*, an Iraqi Christian mother of three, tells Suzan Ayyildiz about her experiences.**

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Since the US-led invasion of Iraq in 2003, many Iraqis fear for their safety on a daily basis. Minority groups, such as Chaldo-Assyrians, suffer in particular. They and their places of work and worship are physically targeted by extremist groups in an attempt to make them convert or leave their homes. This constant threat to their security has led many members of minority groups to flee the country in search of a new beginning.

In October 2009, the UNHCR reported that the number of asylum-seekers originating from Iraq has consistently been the highest for the last four years, with 13,200 Iraqis making claims in the first half of 2009 alone. The majority of the claims made by Iraqis in the last four years were made to Germany, the Netherlands and Sweden. Sweden has been a popular destination for Assyrians in particular, as there is an existing Chaldo-Assyrian community there.

However, there has been a sharp decline in asylum claims to Sweden since 2007, when a migration court ruled, 'that the situation in Iraq was not one of "armed conflict"'. The implication of the above ruling is that many of these refugees may now be turned away, even though conditions

in Iraq continue to be dangerous for minority groups.

Zeena, a 44-year-old Assyrian woman, and her three children, aged 17, 15 and 9, have been in Sweden since December 2007 waiting for their appeal to be accepted. All they have had is rejection. Zeena said the response to her appeal states that Iraq is a safe country and that she and her family do not need to stay in Sweden.

But Zeena's experiences in Iraq have been far from safe. Before leaving the country, Zeena's family faced daily bomb threats and her husband, who is still in Iraq, has been threatened by gunmen. Like many other minority communities in the country they were forced to stay at home and not go to work or, as a final choice, to leave the country. After she and her family decided to make a new start, they initially went to Syria and stayed there for two months.

Of Sweden she says: '[I] hoped this would be a place where there is no worry about safety.' However, arriving in the country was only the first step. Now, Zeena has to deal with the complications of her claim to gain her legal status. She says, '[The authorities] told me that I did not deserve to stay in Sweden.' But for her there is no other option. Sweden is where she and her children are finally beginning to feel safe.

Many appeals are rejected but people want to keep their hopes up, as Zeena has done so far. She says that she will renew her appeal as returning to Iraq is not an option. 'Nobody threatens us here; we are part of the society but only not legally,' she adds. She and her children feel free to participate in social activities in Sweden. Her children can go to school and she can go out to meet with her friends or see her lawyer, although there is always doubt about being deported.

There are many stories like Zeena's; despite the tougher laws, asylum-seekers from Iraq continue to seek refuge in Sweden, the rest of Europe and worldwide. Many will face being returned; but, particularly for those from minority communities, it is a ruling that seems impossible to follow. ■

\*Names have been changed to protect identities

*Edited by Rahnuma Hassan*

zens (3,857), followed by Iraqis (2,451) and Somalis (1,305), who are the largest African community in Sweden (about 25,159 people). According to a 2005 report submitted to the OSCE by the International Helsinki Federation for Human Rights, Sweden has the largest number of Roma in the Nordic countries with about 50,000 Roma living there. There are numerous religious communities in the country; their numbers are estimated on the basis of statistics submitted by religious organizations as the government does not register the religion of citizens. Approximately 5 per cent (450,000–500,000) of the population is Muslim; the Jewish community estimates that among Sweden's 20,000 Jewish people there are 8,000 practising members. As stated by USCIRF 2009, religious education covering all major world religions is compulsory in public schools and a government authority was established in 2003 to promote the protection of human rights and the values of tolerance and democracy.

Religious and ethnic discrimination continues to be a concern, however. Swedish members of ENAR reported that individuals originally from Middle East and Africa are subject to greater levels of racism and discrimination. Roma also face widespread discrimination.

In August 2009, MRG raised concerns about the practice of Swedish authorities of forcing Roma to return to Kosovo, where they face discrimination and other violations of their human rights. MRG warned that:

*'Sweden should ensure that before it returns Kosovo Roma, circumstances are created which allow them to live in dignity and without discrimination ... most are placed on planes without any aid and dropped at the airport in Kosovo without any support in terms of housing, employment or health care.'*

AI also criticized Sweden for the treatment of asylum-seekers from Iraq. In its 2009 country report, AI cited the UN Committee Against Torture (CAT), which raised serious concerns about the practice of Swedish authorities of keeping asylum-seekers in detention before deportation without any time-limits set by law. According to the report, most new applications for asylum were rejected by the Migration Board on the grounds that there was no internal armed conflict in Iraq. In February 2008, an agreement was reached by Sweden and

Iraq, whereby rejected asylum-seekers could be forcibly returned to Iraq. Prior to this, only Iraqi nationals who agreed to be returned were accepted by the Iraqi authorities. Those returned go back to an uncertain future. MRG's 2009 report on Iraq's uprooted minorities cited an August 2009 Swedish Radio News investigation which revealed that Iraqi Christians whose asylum applications had been rejected by the Swedish government and who have been forcibly or voluntarily returned to Baghdad, are once more fleeing the country. Out of 25 interviewed for the programme, including seven children, 'all but one are now on the run again from widespread persecution in Iraq'.

Despite the establishment of a hate crime unit by the Stockholm County police to train police officers to detect and inform the public of hate crimes, and its subsequent expanded role to cover the whole country in 2009, racism within the police caused a major uproar in Sweden. Police officers were caught on video using racist insults during a riot in an ethnically mixed neighbourhood in Malmö and some 50 officials adopted racist names while role-playing criminals and suspects during a training exercise. The police chief subsequently promised an independent inquiry into racism within the police.

Meanwhile the leader of the far-right Sweden Democrats openly argues against Muslims in the country, saying that 'Islam is Sweden's biggest threat' since the Second World War. Jurists believe that the text, which appeared in the opinion section of the *Aftonbladet* newspaper in October 2009, qualifies as hate speech and agitation against an ethnic group. But Chancellor of Justice Göran Lambertz said he was not considering launching an investigation into whether the article violates Swedish rules governing freedom of expression. The party, founded in 1988, argues that Sweden should remain a homogeneous society by drastically cutting the numbers of immigrants. It has recently made gains in local elections and there are fears that it may win a seat in the national parliament in the 2010 national elections.

## Turkey Contributed by Nurcan Kaya

In 2009, Turkish state policy on minorities began to be discussed openly for the first time in the history of the Republic. At a congress that took place on 23 May 2009, Prime Minister Erdoğan stated,

'Many things were done in this country for years. People from different ethnic backgrounds were expelled. This was the result of a fascist approach.' Government representatives organized workshops with representatives of Roma NGOs, Alevi NGOs and non-Muslim minorities, which were welcomed by some but criticized for not resulting in any concrete progress.

The 'Ergenekon case' (concerning suspects accused of involvement in an alleged military coup in October 2008) continued in 2009. It saw the accused brought before the courts for the first time. A military-backed strategy aimed at reducing public support for the ruling Justice and Development Party (AKP) and reportedly drafted in April 2009, was disclosed by daily newspaper *Taraf* in June 2009. Likewise, the 'Cage Operation Action Plan', allegedly drawn up in March 2009 to target, harass and attack non-Muslim minorities, and mentioning the killings of three Zirve Publishing staff, the 2007 murder of journalist Hrant Dink and the 2006 murder of Father Santoro, a Catholic priest, was also published by *Taraf* in November 2009. The plan apparently sought to blame the AKP for those deaths, Turkish media reported, and was meant to garner support for the suspects in the Ergenekon case.

In addition to killings of non-Muslims since 2007, the accused in the Ergenekon case are reportedly linked to various extra-judicial killings that took place in the 1990s in south-eastern Turkey. While a section of Turkish society and intellectuals has been supporting the prosecution of these acts, in the hope that Turkey will face its past and make a fresh start that will ensure equal treatment of all citizens, the military, nationalists, republicans and the main opposition party have been strongly critical.

Another important positive development was the 'Democracy Opening', which was initially called the 'Kurdish Opening'. Announced by the Minister of the Interior in July 2009, it aimed to bring about equality for all citizens, including Kurds, Alevis, Roma and non-Muslim minorities. The Minister of the Interior met journalists, NGO staff and representatives of different sections of society in August 2009 to discuss finding a peaceful solution to the Kurdish question. Later, the minister briefly shared the contents of these talks in a speech before parliament on 13 November 2009. As with the Ergenekon case, the opposition and nationalists accused the government of betraying the state.

While the minister's opening was welcomed by the pro-Kurdish Democratic Society Party (DTP), many Kurds and intellectuals, it was criticized by others for being unclear. Moreover, the initiative was followed by various developments that did not fit with its stated aims. The DTP was closed down, 37 party members were banned from political activities and two MPs were removed from office following a decision by the Constitutional Court in December 2009. Soon after, many members of the DTP, including some mayors, were detained following accusations that they were members of the banned Kurdistan Workers' Party (PKK) or the Kurdistan Communities Union (KCK), which is alleged to be the urban arm of the PKK.

Despite the government's initiatives, no concrete progress was achieved during 2009 regarding the treatment of minorities. The government remains reluctant to review constitutional provisions. Ethnic minorities, including Caucasians, Kurds, Laz and Roma, are not recognized as minorities and are therefore not fully guaranteed a number of rights or services, including access to media in their own languages and mother tongue education or training.

In 2009, several racist attacks against Kurds and Kurdish politicians took place. Some human rights organizations, such as the Contemporary Jurists' Association, criticized public officials for not taking effective measures to prevent these attacks or conduct proper investigations. The military still has influence on the country's political discourse as well as on its judiciary, and there is a separate judiciary for members of the military services.

## Religious minorities

Changes are needed to Turkey's policies and legal and administrative mechanisms regarding the treatment of religious minorities. The government still refers only to the 1923 Treaty of Lausanne, which, while guaranteeing specific rights to non-Muslim minorities, has not kept up with developments in international human rights standards. Moreover, Turkey continues to violate the Treaty of Lausanne by applying it only to Armenians, Rums (members of the Eastern Orthodox community) and Jews. This leaves other non-Muslim groups, such as Assyrians, Baha'is, Chaldeans, Protestants and Yezidis outside the scope of the Treaty. Furthermore, Turkey has limited the property and



**Left:** A Kurdish nomadic family sit outside a cave where people lived until forced to settle by the government. *Carolyn Drake/Panos.*

their problems and possible solutions for the first time. Bianet, an online news agency, reported in November 2009 that these workshops were criticized by some Alevis for not being sufficiently concrete in finding any solutions. Alevi NGOs organized a conference in November 2009 to demand equal treatment, including the removal of the compulsory classes from the school curriculum and the official recognition of Cemevis as places of worship.

The very small Jewish community in Turkey, comprising approximately 23,000 people, is facing increasing discrimination. According to a 2008 Pew survey on European attitudes toward Jews and Muslims, 76 per cent of respondents in Turkey had a negative view of Jews, compared to 49 per cent in 2004. A 2009 study on radicalism by Yilmaz Esmer, a professor at Bahçesehir University, showed that 64 per cent of Turks in 34 cities stated that they do not want Jewish neighbours. In response, the community has initiated an outreach programme. For example, Chief Rabbi Ishak Haleva is conducting inter-faith prayer services at the Neve Shalom synagogue in Istanbul, the site of previous extremist attacks, including a car-bombing in 2003 that left more than a dozen people dead and many injured.

Timur Topuz, President of the Board of the Istanbul Protestant Churches Foundation estimates that there are 5,000 Protestant Christians in Turkey. Although the Law on Constructions (Law no. 3194) allows new churches to be built and opened, Protestants report that they face bureaucratic obstacles when seeking recognition from municipalities. According to the regulations, places of worship need to be at least 2,500 square meters – a requirement which is almost impossible to meet. However, the Istanbul Protestant Church did gain legal status, despite not meeting this requirement. Protestant churches also have problems when setting up non-profit foundations. According to Topuz, their foundation is the only one that is officially recognized. Although missionary activities are legal in Turkey, prejudice and harassment are common against Protestants. They receive threats by email, phone or post; mostly these are not properly investigated and judicial proceedings are slow. Another problem is that non-Turkish citizen Protestants are not allowed

to volunteer at their churches. According to Topuz, American, British and German volunteers in Izmit were expelled on the basis of not having work permits, although they were volunteering at their church. ■

education rights of Armenians and Rums, in violation of the Treaty.

The Law on Foundations (Law no. 5555) that entered into force in February 2008 allows non-Muslim foundations to apply to recover properties seized by the state in the 1970s, but only if they are still in the hands of the state. According to the European Commission's 2009 *Turkey Progress Report*, 1,393 applications were lodged by non-Muslim foundations to recover their properties before the deadline of August 2009. The law does not guarantee the return of, or compensation for properties belonging to non-Muslim foundations that were seized and sold to third parties.

Discrimination and racist attitudes towards non-Muslim minorities are widespread. The cases brought against the accused of the racially motivated murders of the Armenian journalist and human rights activist Hrant Dink and the Christian staff

of the Zirve Publishing House in Malatya are still pending. The police officers, who were accused of negligence for failing to protect Dink despite having received intelligence that his murder was being planned, remain in their posts. No case was brought against them in 2009 despite attempts by human rights lawyers.

Alevis are still not acknowledged as a diverse group, different from Sunni-Muslims. Their places of worship, 'Cemevis', are not recognized by authorities. Alevi children are obliged to attend compulsory 'religious culture and ethics' classes which focus on Sunni Islam, despite the ECtHR's ruling in *Hasan and Eylem Zengin vs. Turkey*, issued on 9 October 2007, which found that the classes violated the Alevi children's right to education under Article 2 of the first Protocol to the ECHR.

Beginning in June 2009, government representatives organized workshops with Alevis to discuss



# Middle East

Lena El-Malak

In a volatile region mired in conflict, 2009 ranks as a particularly tumultuous year. The rise of the right in Israel's February 2009 elections puts into question the rights and freedoms of Israel's Palestinian minority. The formation of a coalition government incorporating the far-right political party of Yisrael Beiteinu has further alienated this minority, composed of both Palestinian Christians and Muslims.

The Israeli military operation in Gaza in the Occupied Palestinian Territories (OPT) in January 2009, resulted in considerable loss of life and widespread destruction of property. A year on, and with Israel obstructing the entry of construction material, thousands of Gazans continue to live in tents or the rubble of their former homes. The blockade, which has been imposed on Gaza since 2007, also limits the entry of food and medical supplies.

The events in Gaza overshadowed the relationship between Israeli Palestinians and their government, as it did relations between Israel and Arab governments throughout the region. This chapter focuses in particular on Palestinians outside the OPT who are in a minority or non-dominant position in neighbouring states, as well as on the Palestinian minority within Israel.

The elections in Iran, which were among the most controversial to date, also led to a reinforcement of dogmatism. The re-election of President Mahmoud Ahmadinejad in June 2009 was challenged by reformists and moderates, who had promised to improve the situation of minorities and initiate a *rapprochement* with Europe and North America, after years of isolation. The disputed elections were followed by massive public demonstrations across the country, which were, at times, violently repressed by government forces. With fresh demonstrations erupting in December, the internal situation in Iran continues to be alarming.

Meanwhile, Iran's allies in Lebanon were defeated by the March 14 Alliance in Lebanon's close June 2009 elections. It then took Prime Minister Saad Hariri five months of intense negotiations to break the deadlock with the opposition and form a coalition government; this was duly achieved. It is to be hoped that improved relations with Syria will have a positive impact on Lebanon's economy and lead to greater stability, following years of turmoil.

Meanwhile, internal conflict in Iraq continued

to threaten the lives of its numerous minorities. Although there was an overall decrease in sectarian violence, religious minorities are still falling prey to attacks from militant groups. The volatile situation in Iraq continues to push thousands of Iraqis, particularly members of minority religious groups, to seek refuge in neighbouring countries, and asylum further afield.

Northern Yemen also witnessed increased conflict and concomitant loss of civilian life in 2009 as clashes erupted in the north of Yemen between government forces and Al-Houthi rebels. Saudi Arabia was dragged into the conflict when some of the fighters managed to cross its border.

Military operations, sectarian violence, disputed elections, the consolidation of power in the hands of extremist political parties and the rise of religious militant groups have all contributed to the volatile situation in the Middle East. A report published by the United Nations Development Programme (UNDP) and the League of Arab States in December 2009 identified six additional key interrelated challenges facing the region, including: institutional reform, job creation, the promotion and financing of pro-poor growth, the reform of educational systems, economic diversification, and increased food security and self-sufficiency within existing environmental constraints. Despite the magnitude of the challenges and the threats to regional stability, the Middle East has all the ingredients it needs, from a rich and diverse culture to an abundance of natural, economic and human resources, to rise above these challenges and overcome the threats.

## Iran

The year 2009 was a significant one for Iran and its people. It began with celebrations in February, as the country geared up to mark the 30th anniversary of the Islamic revolution. Drafted in the aftermath of the revolution, Iran's Constitution recognizes Islam as the state's official religion and the Twelver Ja'fari School of Shi'ism as the doctrine followed by its adherents. The majority of Iran's 66.5 million population is Muslim (Shia 89 per cent, Sunni 9 per cent). In addition to the Sunnis, Iran has several other religious minorities; 2 per cent of Iran's population are Zoroastrian, Jewish, Christian and Baha'i. According to Article 13 of the Constitution, Zoroastrian, Jewish and Christian Iranians are the

## Special report

# The status of Palestinian refugees in the Middle East: 60 years on, still unprotected

The establishment of the State of Israel in 1948 led to the forcible displacement of over 725,000 Palestinians from their homes. On 8 December 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established by UN General Assembly Resolution 302 (IV) to 'carry out in collaboration with local governments ... direct relief and works programmes' for the benefit of these refugees. UNRWA began operations on 1 May 1950. Sixty years on, in the absence of a solution to the Palestinian refugee issue, UNRWA continues to be the main provider of basic services to 4.6 million registered Palestinian refugees residing in its five areas of operation (Jordan, Lebanon, Syria, the West Bank and the Gaza Strip).

Throughout the years, UNRWA has had to deliver its services both in times of relative calm in the Middle East and in times of hostilities. The Agency works in close cooperation with the governments of Jordan, Lebanon and Syria, and with Israel and the Palestinian Authority in the OPT, in order to carry out its operations. Notwithstanding UNRWA's achievements over the past 60 years in educating generations of refugees and providing them with health care, relief and other essential services, the status of Palestinian refugees in the Middle East remains precarious.

With the exception of Jordan, none of the Arab

host countries have granted citizenship to Palestine refugees. A formal legal status under national law, codified in legal instruments, in many instances does not exist. The legal position of Palestinian refugees in individual Arab states largely depends on administrative practices, which are often subject to arbitrary changes. The actual treatment of the refugees depends to a great extent on the policies of the various host countries vis-à-vis Palestinians in general, and the Palestine Liberation Organization (PLO) in particular.

In an attempt to regularize the status of Palestinian refugees in the Arab world, the League of Arab States adopted the Protocol on the Treatment of Palestinians in the Arab States on 11 September 1965. Also known as the Casablanca Protocol, this is a multilateral agreement which was ratified by nine state members of the League, including the three main host countries (Jordan, Lebanon and Syria). It is binding on the ratifying states, although neither the Protocol nor the Arab League's Charter provide for enforcement mechanisms in cases of violation. The Casablanca Protocol called for Palestinians, while keeping their Palestinian nationality, to be treated on a par with nationals in Arab states with regard to employment, the right to leave and return to the territory of the state in which they reside, freedom of movement between Arab states, issuance and renewal of travel documents, and freedom of residence, work and movement.

The Protocol set a high standard of protection for Palestinians. Unfortunately, most Arab states never fully implemented it. In addition, in 1991, the League of Arab States adopted Resolution 5093, which authorized states to treat Palestinian refugees in accordance with local norms rather than the provisions set forth in the Protocol, thus bypassing the standard of protection set by it.

Today, Palestinian refugees continue to face discriminatory treatment, particularly with regard to employment and freedom of movement in the Arab region. After the fall of Saddam Hussein's regime in 2003, Palestinians have been targeted in Iraq, and thousands of them have fled.

## Special report

While the status of Palestinian refugees in Arab states continues to give cause for concern, it should not detract from Israel's responsibility towards these refugees. Following their displacement from their homes in 1948, the UN General Assembly adopted Resolution 194(III) on 11 December 1948, which affirmed the refugees' right to return, and to restitution and compensation. Despite repeated and near unanimous reaffirmations of this resolution by the General Assembly every year since 1948, Israel continues to deny Palestinian refugees their rights to return to their homes and to receive compensation for the losses they have incurred. In addition, Palestinian refugees residing on the West Bank have been hard hit by Israel's regime of closures, since they are largely dependent on income from work inside Israel. Meanwhile, the Gaza Strip's population, two-thirds of whom are refugees, has been subjected to a crippling embargo since 2007, which has resulted in

severe shortages of even the most basic goods such as food, fuel and medicine. Thousands of them were also forced to leave their homes during last year's Israeli military operation in the Gaza Strip, and many continue to live in tents to this day.

As UNRWA marks its 60th anniversary, the continued existence of the leading agency in charge of Palestinian refugees serves as a potent reminder of the plight of the world's largest and longest-standing refugee population. Only a just resolution of this issue will enable Israelis and Palestinians to move from their tumultuous past of wars and conflicts to a future of reconciliation, peace and security. ■

**Below:** A Palestinian man with his son, waiting to load their possessions onto a truck to be transferred from Al Tanf camp, located between Iraq and Syria, to Al Hol camp in Syria, December 2009. *UNHCR/B. Diab.*



only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education. Baha'is, on the other hand, are not recognized as a religious minority. However, as non-Muslims, they are protected under Article 14 of the Constitution, provided that they refrain from conspiracy or activity against Islam and the Islamic Republic of Iran.

Notwithstanding the formal guarantees of protection in the Constitution, members of the Baha'i faith have long been subjected to discrimination, harassment and arbitrary arrest. According to Amnesty International (AI), Baha'is continued to be denied access to higher education in 2009. At least 10 Baha'i students were expelled from their universities on the basis of their religion throughout this academic year. According to the US Commission on International Religious Freedom (USCIRF) report of 2009, Baha'is are also prohibited from teaching and practising their faith, and are barred from all leadership positions in the government and the military. The report also confirms that Baha'i communal property and sacred sites have repeatedly come under attack. AI further reports that government-controlled broadcast and print media, such as the *Kayhan* newspaper, intensified negative campaigns against Baha'is throughout 2009, accusing them of establishing ties with Israel. These accusations are in part due to the fact that the Baha'i world headquarters is located in Israel.

The plight of Baha'is in Iran was brought to the fore when Ministry of Intelligence officials arbitrarily arrested seven Baha'i community leaders in March and May 2008. Their trial has been postponed at least twice, and they are facing charges of 'espionage for Israel' and 'propaganda against the system', both of which carry a possible death penalty. They were expected to stand trial in February 2010, and the trial was continuing at the time of writing. As of July 2009, according to the International Campaign for Human Rights in Iran, a US-based non-governmental organization (NGO) working on human rights violations in Iran, there are an additional 30–40 Baha'is in detention because of their religious beliefs. The USCIRF 2009 report also stated that, 'Government officials reportedly offered Baha'is relief from mistreatment in exchange for recanting their religious affiliation, and

if incarcerated, recanting their religious affiliation as a precondition for releasing them.'

On 18 December 2008, for the sixth consecutive year, the UN General Assembly passed another resolution (A/Res/63/191) condemning the human rights situation in Iran and denouncing the government's harsh treatment of religious, ethnic, linguistic or other minorities – whether they are recognized or not. On 20 November 2009, the UN General Assembly's Third Committee approved a further resolution (A/C.3/64/L.37) on human rights in Iran, which expressed particular concern, *inter alia*, over the situation of minorities. Both resolutions specifically mentioned the case of the seven Baha'i leaders.

The Baha'i community was not the only religious minority subjected to discrimination and harassment. According to USCIRF 2009, proselytizing continues to be prohibited by the Iranian government, which closely monitors the activities of evangelical Christians while discouraging Muslims from entering church premises. In September 2008, the Majlis (Iranian parliament) approved a revision to the Penal Code whereby apostasy, specifically conversion from Islam, would be punishable by death. This revision was reportedly implemented on a one-year trial basis. The Legal Judicial Committee of the Majlis, however, recommended removing it from the Penal Code in June 2009. USCIRF said there were no documented cases of the death penalty being applied for apostasy in 2009, although there were at least 10 reported arrests of Christian converts.

Although Jews are a recognized religious minority in Iran, they are increasingly concerned about their future security in the country. USCIRF 2009 reported increased hostility towards the Jewish community as a result of President Mahmoud Ahmadinejad's rhetorical attacks on Israel and Zionists, which have blurred the lines between Zionism, Judaism and Israel. Many Jews sought to limit their contact with Israel, or limit open support for the state of Israel, for fear of reprisal.

Non-Shia Muslims also faced substantial societal discrimination. According to AI, Iran's Kurds, most of whom are Sunni Muslims, face discrimination at least in part because of their religion, even though Sunni Islam is recognized and accorded formal legal standing in Iran. Many Sunni Muslims note the absence of a Sunni mosque in Tehran as a prominent example of the government's disregard for this minority. The USCIRF 2009 report

also noted that several Sunni mosques have been demolished in other parts of the country. Sunnis are under-represented in government-appointed positions in the provinces where they form a majority, such as Kurdistan and Khuzestan. The report stated that residents of these provinces have also reported discrimination and lack of resources, though it is difficult to determine whether this discrimination is based on religion, ethnicity or both. USCIRF 2009 also revealed that smaller religious communities, such as Mandaean-Sabeans and Sufis, have faced repression and harassment by authorities similar to that faced by other religious minorities.

Iran is also home to several ethnic minorities. The majority of the population is ethnically Persian (51 per cent). There are also Azeris (24 per cent), Gilaki and Mazandarani (8 per cent), a sizeable Kurdish minority (7 per cent), Arabs (3 per cent), as well as Lur, Baloch and Turkmen (2 per cent of the population each). The Constitution recognizes Persian as the official state language, while allowing the use of other regional and tribal languages in the press and in schools (Article 15). In addition, Article 16 of the Constitution provides that Arabic, which is the language of the Qur'an, must be taught in all classes of secondary schools. Despite these constitutional guarantees, AI reported the arrest of several Azeri activists in 2009, in connection with activities held to protest the lack of teaching in Azerbaijani Turkic. Several Kurdish activists faced a similar fate. Moreover, according to AI, Kurdish prisoners went on hunger strike between August and October to protest against the use of the death penalty on Kurdish political prisoners. Their efforts were in vain. Human Rights Watch (HRW) confirmed the execution by Iranian authorities of a Kurdish political prisoner, Ehsan Fattahian, on 11 November 2009, after a court had sentenced him to death in closed proceedings on charges of committing violent acts against national security.

Members of ethnic minorities continued to campaign for greater political participation, economic, social and cultural rights, as well as access to employment in the public sector. Their demands figured prominently in the debates leading up to the most contested elections in the modern history of Iran. Mehdi Karroubi, one of the presidential candidates in the 12 June 2009 elections and an influential Iranian reformist politician, promised to improve the situation of ethnic minorities and to protect

the rights of religious minorities. According to the Lowy Institute, an independent international policy think-tank based in Sydney, Australia, Karroubi also pledged to remove all forms of discrimination against women, many of whom are doubly disadvantaged as members of a marginalized ethnic or religious minority and because of the subordinate status reserved to women in some communities, such as the Balochi and Kurdish communities.

The disputed re-election of Mahmoud Ahmadinejad on 12 June 2009 was followed by widespread protests across the country. The protests were initially largely peaceful. As tensions grew, however, government forces clamped down on demonstrators, using excessive and sometimes lethal force, which resulted in the deaths of dozens of demonstrators, hundreds of injuries and at least 4,000 arbitrary detentions. The 20 November 2009 UN resolution (A/C.3/64/L.37), mentioned previously, also strongly condemned the government's crackdown on demonstrators in the aftermath of the contested elections and expressed deep concern at the 'serious ongoing and recurring human rights violations in Iran'. Indeed, the human rights situation in Iran remains alarming. Opposition protesters took to the streets again on 27 December 2009 during a religious Shi'ite holiday (Ashura), to denounce the Iranian government. Clashes subsequently erupted with security forces allegedly firing directly into the crowds. International media reported the deaths of at least four protesters, including a nephew of the opposition leader Mir Hussein Moussavi. Hundreds more were injured and there were numerous arrests.

## Iraq

Iraq has been ripped apart by sectarian violence since the US-led coalition invasion of 2003. In the absence of stability and security, millions of Iraqis have been forced into displacement. As of January 2009, the United Nations High Commissioner for Refugees (UNHCR) estimated that 1.9 million Iraqis had become refugees since 2003 and that there were an additional 2.6 million internally displaced. The majority of Iraqi refugees fled to Syria, which currently hosts close to 750,000 refugees, of whom 167,840 are assisted by the UN High Commission for Refugees (UNHCR). Jordan is also host to some 500,000 Iraqi refugees, only a fraction of whom (46,500) are registered with UNHCR.

Although UNHCR is ready to facilitate the vol-

untary repatriation of up to 5,000 Iraqis in 2010, a survey conducted in 2009 revealed that the majority of Iraqis have no plans to return to their country in the foreseeable future. According to UNHCR and the NGO International Rescue Committee (IRC), resettlement remains the main durable solution for these refugees.

The fall of Saddam Hussein's regime also led to the displacement of thousands of Palestinian refugees who had hitherto been residing in Iraq. About 22,000–34,000 Palestinians were believed to live in Iraq at the beginning of the war, according to statistics published by the *Forced Migration Review*. Seen as being favoured by the previous regime, they have faced retaliatory attacks since its demise. UNHCR figures show that only 13,000 are believed to have remained in the country. About 1,500 of them have been living in extremely tough conditions in Al Waleed camp, located close to Iraq's border with Syria, after fleeing from persecution in Baghdad in recent years. According to UNHCR, in April 2009, 59 Palestinian refugees were evacuated from Al Waleed to Romania, where they will remain in a transit centre pending their resettlement to a third country. Another 98 refugees were evacuated in July 2009 to a transit centre in Slovakia. There are to be an additional 843 Palestinian refugees from Iraq at Al Tanf camp, located in the no-man's land between Iraq and Syria near Al Waleed, and 391 in Al Hol, on the Syrian side of the border. The UNHCR expected to have resettled the majority of Palestinian refugees in both these camps by the end of 2009; however the Al Tanf camp was closed in February 2010 and the remaining population was transferred temporarily to Al Hol, where they remain at the time of writing.

While millions of Iraqis have sought refuge in neighbouring countries since 2003, violence and sectarian strife continues to threaten the lives of the millions who chose to remain. According to MRG sources inside Iraq, members of religious and ethnic minorities are particularly vulnerable.

Kurds represent the largest non-Arab minority in the country (15–20 per cent of the population), followed by Assyrians and Turkmen. Other smaller ethnic (and ethno-religious) minorities in Iraq include Armenians, Fayli Kurds, Roma and Shabak. According to Article 4 of the Constitution, only Arabic and Kurdish are considered official languages of the state. The same article, however, recognizes the right of minorities to educate their children in

their mother tongue. It also recognizes the Turkman language and the Syriac language, which is the language spoken by small Christian communities in Iraq, as official languages in the administrative units densely populated by these minorities. The Constitution further guarantees the right for regions or governorates to adopt any other local language as an additional official language if the majority of its population so decides in a general referendum.

As for religious groups, the majority of the population in Iraq is Muslim (60–65 per cent Shia Muslim) and Islam is recognized as the state's official religion (Article 2 of the Constitution). The Constitution guarantees the right to religious freedom of Iraq's religious minorities, namely the Christians, Mandaean-Sabeans and Yezidis. There is also a very small Baha'i community, numbering fewer than 2,000 members, and an even smaller Jewish community of less than 20 Jews.

Although government efforts to restore security and stability have curbed sectarian violence, USCIRF 2009 reported that religious and ethnic minorities in Iraq continue to be at risk of attacks mainly orchestrated by al-Qaeda in Iraq or, in some cases, by Shia extremists. USCIRF 2009 reported that numerous women, including non-Muslims, opted to wear the *hijab* for security purposes after being harassed for not doing so. Shopkeepers were also targeted for selling alcohol or providing services considered to be inconsistent with Islam; this has particularly affected Christian and Yezidi minorities.

MRG and organizations such as the Mandaean Human Rights Group continued to document the ongoing targeting of Mandaean-Sabeans by Islamic militias, including cases of rape, kidnapping and forced conversion.

A November 2009 HRW report found religious minorities in northern Iraq to be caught in the middle of a struggle for land and resources between Arabs on the one hand, and leaders of Iraq's semi-autonomous Kurdish region on the other (also known as the Kurdistan Regional Government – KRG). According to the report, the KRG is accused of arbitrarily arresting, detaining and intimidating anyone resistant to its plans. These plans were met with stiff opposition from the local Sunni Arabs, and prompted extremist elements among the insurgents to take it out on the Chaldo-Assyrian Christian, Yezidi and Shabak communities, labelling them 'crusaders', 'devil-worshippers' and 'infidels'.

According to USCIRF 2009, Christians and Yezidis also claimed that the KRG confiscated their property without compensation and that it had begun building settlements on their land. KRG officials, for their part, continued to deny any allegations of wrongdoing, blaming the problem entirely on Sunni Arab extremist groups, as reported by HRW.

The KRG received a political blow as a result of the January 2009 provincial elections in Nineveh province, when a nationalist Sunni party, al-Hadba, defeated the Kurdish coalition (Nineveh Fraternal List) after campaigning on an anti-KRG platform. USCIRF 2009 recorded that the provincial elections of January 2009 were, however, criticized by non-Muslims, particularly Christians and Yezidis, who reported being politically isolated by the Muslim majority because of their religion.

### Israel and the Occupied Palestinian Territories

Between 27 December 2008 and 18 January 2009, Israel conducted a large-scale military operation in the Gaza Strip, codenamed Operation Cast Lead. According to figures released in September 2009 by B'Tselem, an Israeli human rights organization, the most destructive military assault in Gaza's history resulted in the deaths of about 1,400 Palestinians, the majority of whom were civilians, and 13 Israelis, including three civilians. The military operation was spurred by rocket attacks against Israeli towns. Israeli air raids and the subsequent ground invasion wrought widespread destruction of Palestinian homes and other civilian infrastructure such as mosques and schools. The military operation followed an 18-month blockade of Gaza's borders, imposed after Hamas' takeover of Gaza in mid-2007, which had crippled its economy, leading to unprecedented levels of poverty and hardship among Gaza's 1.5 million residents – three-quarters of whom are refugees registered with UNRWA. According to a report released in October 2009 by Médecins Sans Frontières (MSF), an international medical relief NGO, 85 per cent of Gaza's population is entirely dependent on aid as result of the embargo.

On 3 April 2009, the President of the UN Human Rights Council established the UN Fact-Finding Mission on the Gaza Conflict with a mandate:

*'to investigate all violations of international human rights law and international humanitarian law that*

*might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009, whether before, during or after.'*

The four-member mission was headed by Justice Richard Goldstone, who is a former justice of the Constitutional Court of South Africa and former Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda. On 25 September 2009, the mission issued its final report, which has become known as the Goldstone Report. The report found evidence of serious violations of human rights and humanitarian law committed by Palestinian militant groups and Israeli armed forces. The report was endorsed by the UN Human Rights Council on 16 October 2009, and on 5 November 2009, the General Assembly adopted Resolution 10883 giving Israel and the responsible Palestinian Authorities three months to undertake 'independent, credible investigations' into alleged violations of international humanitarian and human rights law committed during the conflict in Gaza.

The situation in Gaza ratcheted up the already tense relationship between Israel's Jewish majority and its Palestinian citizens. According to figures from Adalah, an Arab-Israeli legal advocacy group, Israel's Arab minority makes up about 20 per cent of the total population and brings together members of three religious communities: 81 per cent of them are Muslim, 10 per cent are Christian and 9 per cent are Druze. The rise of the right in Israel in the February 2009 elections did not bode well for Israel's Palestinians. In the run-up to the elections, prime ministerial candidate Avigdor Lieberman ran an electoral campaign against Israeli Arabs. As reported in Israeli daily newspaper *Haaretz*, Lieberman's far-right party, Yisrael Beitenu, shaped its campaign around the slogan, 'No citizenship without loyalty', which was aimed at Palestinian citizens of Israel, some of whom the party accuses of constituting a fifth column. Lieberman is known for his inflammatory statements about Arabs. According to international media, Lieberman has openly advocated the 'transfer' of Palestinian citizens in Israel and has called for the execution on the grounds of treason of Palestinian members of the Knesset who met with Hamas members on the West Bank or in the Gaza Strip. Revealing an alarming shift to the far right by a section of Israeli society, Lieberman's party emerged as

the third largest in Israel after the February 2009 general elections. On 16 March, his party entered into the coalition government led by right-wing Likud leader Benjamin Netanyahu. Lieberman currently serves as Minister of Foreign Affairs and also has the title of Deputy Prime Minister.

Following the formation of the coalition government, Yisrael Beitenu introduced a series of bills detrimental to Palestinian citizens of Israel. In May 2009, a Yisrael Beitenu Member of Knesset (MK) proposed a bill that would have made it illegal to mark Israel's Independence Day as a day of mourning. Israel's Independence Day is commemorated by Palestinians worldwide as the day of Catastrophe ('Nakba'), as it marks the forced displacement of two-thirds of the Palestinian population from their homes during the 1948 Arab-Israeli war. The so-called Nakba Law would have made participation in Nakba Day events punishable by three years' imprisonment. The Association for Civil Rights in Israel (ACRI), Israel's oldest and largest human rights organization, criticized the legislation as impinging on citizens' freedom of speech, and as likely to increase the isolation and alienation felt by Palestinian citizens of Israel. A softer version

**Below:** Israeli border police deny entry to Muslims who came to attend Friday prayers at the Al-Aqsa mosque, in Jerusalem's old city. October 2009. *Abikam Seril/Panos.*

was approved by the Ministerial Committee for Legislation in July 2009, thus putting it on the fast track for ratification in the Knesset (the Israeli parliament). According to ACRI, the approved version gives the Finance Minister the authority to withhold funding from bodies that mark Israel's Independence Day as a day of mourning. In other words, it will enable the government to cut off funding to Arab local authorities and other groups that mark the Nakba.

The Palestinian narrative of displacement and dispossession was under further attack when, in October 2009, the Israeli Ministry of Education decided to withdraw all copies of a history textbook, meant for the 11th and 12th grades, after the Israeli newspaper *Haaretz* reported in September that the textbook for the first time presented the Palestinian claim that there had been ethnic cleansing in 1948. A revised version of the textbook is expected to be approved in 2010.



Yisrael Beitenu presented additional bills targeting Israel's Palestinian citizens. In May 2009, the party proposed a 'Loyalty Oath' bill, which would have required every Israeli citizen to take an oath that would include a pledge of loyalty to Israel as a Jewish, Zionist and democratic state; to its emblems and values; and to serve Israel either through military service or through any equivalent alternatives. The bill was rejected by all members of the Ministerial Legislative Committee, excluding Yisrael Beitenu MKs. In January 2010, a similar bill calling for all MKs to swear a 'loyalty oath' to the state was proposed by Yisrael Beitenu's MK David Rotem. The bill, which was set to be discussed at the Knesset's Ministerial Legislation Committee, would require the oath to be changed from 'I promise to be loyal to the State of Israel' to 'I promise to be loyal to the State of Israel as a Jewish, Zionist, democratic state, and to its symbols and values.' A year ago, Arab MKs' loyalty to the State of Israel was put into question when the Central Elections Committee (CEC) decided to bar Israel Arab parties from running in the February 2009 parliamentary elections. The CEC's decision was eventually overturned by the Supreme Court of Israel, following an appeal filed by Arab politicians.

Palestinian citizens of Israel were further expected to demonstrate their loyalty to the state by performing military service. Israel's Chief Commander, Gabi Ashkenazi, stated in September 2009 that all Israeli citizens should be required to perform national service. Israeli Arabs, both Christians and Muslims, have been exempted from military service since the State of Israel's establishment in 1948 as the authorities were reluctant to arm this potentially hostile Palestinian minority. The only exception was the Druze community, whose leaders agreed in the 1950s to their sons' conscription. The majority of Palestinian citizens of Israel opt not to join the army, as they object to the Israeli military's actions in the occupied Palestinian territories. USCIRF 2009 noted that their decision not to serve in the army puts them at a disadvantage as many rights and benefits in Israel are contingent on military service and therefore are claimed mostly by the Jewish population, including a wide variety of jobs, entitlement to state-controlled land and economic privileges such as cheap loans and tax breaks. In calling for mandatory national service, Ashkenazi noted that those Israelis who refused to serve could not expect 'civil equality'.

According to USCIRF 2009, government allocations of state resources favour Orthodox and ultra-Orthodox Jewish religious groups and institutions, discriminating against non-Jews and non-Orthodox streams of Judaism. The government also implements regulations to protect Jewish sites only, USCIRF 2009 noted. Non-Jewish religious sites do not enjoy legal protection under the 1967 Protection of Holy Sites Law because the government does not officially recognize these sites as holy. In 2004, Adalah filed a petition criticizing the government's failure to implement regulations to protect non-Jewish holy sites, many of which have been desecrated or converted to other uses. In March 2009, the Supreme Court ruled that 'implementing regulations to protect Islamic holy sites is unnecessary'.

Further, USCIRF 2009 said that Muslim residents of the Be'er Sheva area, in southern Israel, continued to protest 'the municipality's intention to reopen the city's old mosque as a museum rather than as a mosque for the area's Muslim residents'. According to the Palestinian Centre for Human Rights (PCHR), a Gaza-based NGO, the Israeli military also raided the al-Aqsa mosque in occupied East Jerusalem on 25 October 2009, and was accused of using excessive force against Palestinian civilians who attempted to prevent the raid. The raid followed a call by Jewish groups who had urged their followers to break into the al-Aqsa mosque to conduct Talmudic rituals. The PCHR reported another similar assault on the al-Aqsa mosque on 27 September 2009, when a number of Israeli settlers attempted to break into the yard of the mosque.

Christian religious sites were not left unscathed either. In November 2009, the global news agency Agence France Presse (AFP) reported the carrying out of unilateral work on the Holy Sepulchre Church in occupied East Jerusalem by the Israeli Antiquities Authorities (IAA). According to AFP, the Franciscan Custody of the Holy Land, which looks after Christian holy places on behalf of the Roman Catholic Church and liaises with other Christian denominations, protested the IAA's actions and asked it to refrain from altering the status quo pertaining to the Holy Sepulchre Church.

Jewish settlers also sought to establish a presence in East Jerusalem's central Sheikh Jarrah neighbourhood, the location of many noteworthy landmarks. In a series of evictions on 2 August 2009, 53 Palestinians, including 20 children, were forced out

of their homes in Sheikh Jarrah by the Israeli authorities, following a court ruling. Their properties were handed over to a settler organization that intends to build a new settlement in the area. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), the planned settlement will place an estimated 475 Palestinians at risk of forced eviction, dispossession and displacement.

In the occupied West Bank, Palestinians continued to be subjected to Israeli settler violence, with reports of settlers assaulting and destroying Palestinian property. In December 2009, settlers set fire to a mosque in the northern West Bank village of Yasuf. According to USCIRF 2009, most instances of settler violence and property destruction did not result in arrests or convictions.

Palestinian Muslim and Christian residents of the occupied West Bank were also unable to reach places of worship and to practise their religious rites owing to Israel's strict closure policies. As noted in the US State Department's International Religious Freedom Report (IRFR 2009), the construction of the separation barrier by the Israeli government, begun in 2002, 'has severely limited access to holy sites and seriously impeded the work of religious organizations that provide education, healthcare, and other humanitarian relief and social services to Palestinians, particularly in and around East Jerusalem'. According to the Internal Displacement Monitoring Centre (IDMC), an organization monitoring conflict-induced internal displacement worldwide, the construction of the barrier, which was condemned by the International Court of Justice's Advisory Opinion of 2004, has resulted in the confiscation of property owned by Palestinians and several religious institutions, and the displacement of thousands of Muslim and Christian residents of the West Bank. The impact of the barrier on access to religious sites was highlighted in the IRFR 2009:

*'The separation barrier made it particularly difficult for Bethlehem-area Christians to reach the Church of the Holy Sepulchre in Jerusalem, and made visits to Christian sites in Bethany and Bethlehem difficult for Palestinian Christians who live on the Jerusalem side of the barrier, further fragmenting and dividing this small minority community.'*

The IRFR 2009 further noted that Israel prevented thousands of Palestinian Muslims from the West

Bank and the Gaza Strip from entering Jerusalem to access the Haram al-Sharif sanctuary, including the al-Aqsa mosque. Citing security concerns, Israeli authorities also generally restricted access to the mosque for Palestinian residents of Jerusalem, especially males under the age of 50, and sometimes women under the age of 45.

## Jordan

A decade since King Abdullah II ascended the throne of the Hashemite Kingdom of Jordan, the country remains relatively stable in a region mired in conflicts and political turmoil. The majority of the Kingdom's small population of 6.3 million is Sunni Muslim (around 92 per cent). Christians of various denominations make up about 6 per cent of the population. The remaining 2 per cent include Shia Muslims, approximately 1,000 Baha'is, and an estimated 14,000 Druze. Small Circassian (Muslim) and Armenian (Christian) minorities together make up about 2 per cent of the population. No statistics are available on the number of persons who are not adherents of any religious faith.

Jordan is also home to about 500,000 Iraqi refugees, of whom only 46,500 are registered with the UNHCR. Forty-five per cent of the Iraqi refugees registered with the UNHCR are Sunni Muslim, 35 per cent are Shia Muslim and 12 per cent are Christian. There are also close to 2 million Palestinian refugees registered with UNRWA. According to UNRWA, all Palestinian refugees in Jordan were granted full Jordanian citizenship, with the exception of some 120,000 refugees originally from the Gaza Strip (also known as ex-Gazans). The latter are eligible for temporary Jordanian passports, which do not entitle them to full citizenship rights such as the right to vote and employment with the government.

Article 2 of Jordan's Constitution recognizes Islam as the state's religion and Arabic as its official language. The Constitution also recognizes the equal rights of Jordanians before the law and prohibits discrimination between them as regards to their rights and duties on the grounds of race, language or religion (Article 6). The Constitution further guarantees the freedom to exercise all forms of worship and religious rites, provided they do not violate public order or morality (Article 14).

Christians form the largest religious minority in

Jordan. On 21 January 2009, the cabinet designated the Council of Church Leaders as the government's reference point for all Christian affairs. The Council includes heads of the 11 officially recognized Christian denominations in the country. According to the Jamestown Foundation, a USA-based think-tank, the Council does not, however, represent non-recognized Christian denominations, such as evangelical groups. Nevertheless, USCIRF 2009 confirmed the absence of any reports of discrimination or incitement against Jordan's Christian minority. It is said that Christians serve regularly as cabinet ministers, and they are represented in both the Lower and Upper Houses of Parliament.

In May 2009, Pope Benedict XVI visited Jordan as part of a wider tour of the Holy Land, which included stops in Israel and the West Bank. The Pope's visit was aimed at encouraging the minority Christian community in the Middle East, and promoting better inter-faith dialogue between followers of the three Abrahamic religions.

Despite the relative tolerance displayed by Jordan towards religious minorities, there are nevertheless some instances in which the government has interfered with the religious freedom of Muslim and non-Muslim groups. USCIRF 2009 highlighted the sensitive situation of converts, who face discrimination and harassment, as the government continues to prohibit conversion from Islam. The government does not recognize converts from Islam as falling under the jurisdiction of their new religious community's laws in matters of personal status. They are still considered Muslims.

Strict penalties are also applied in cases of slander of Islam or the Prophet Muhammad. On 21 June 2009, the court sentenced *Al-Arab al-Youm* reporter and poet Islam Samhan to one year's imprisonment and fined him US \$14,000 (10,000 Jordanian dinars), on charges of slandering Islam through his use of Qur'anic verses in a book of love poetry. He was released on bail pending an appeal of the Court of First Instance's ruling.

Although the government does not recognize the Druze religion or the Baha'i faith, it does not prohibit their practice. They are, however, identified in official government papers as Muslims, or a space/dash is marked under the religion field. Furthermore, Baha'i marriages are not recognized and they are thus unable to get birth certificates for their children. They are also prohibited from reg-

istering schools or places of worship, according to USCIRF 2009.

### Lebanon

The 15-year Lebanese civil war ended with the signing of the 1989 Ta'if Agreement. Twenty years on, Lebanon continues to be divided along sectarian lines. Post-independence, Lebanon's political system was institutionalized in the National Pact of 1943. The National Pact had introduced a confessional formula, which provided for the representation of Christians and Muslims in a six to five ratio throughout government. Furthermore, the offices of president, prime minister and speaker of the parliament were allocated to the Maronite, Sunni and Shia sects respectively. Following a bloody internal conflict, the Ta'if Agreement replaced the six to five ratio of parliamentary seats, which had previously favoured Christians, with a more equitable division of parliamentary seats between Muslims and Christians. Accordingly, nine new Muslim seats were added to the Chamber, creating a 54–54 seat balance. The Agreement, however, maintained the distribution along religious lines of the country's offices of state. Appointments in the public sector are similarly based on a sectarian quota system.

Although the Ta'if Agreement provided for the eventual abolition of political sectarianism, little progress has been made in this regard. In a televised address, President Michel Suleiman proposed to establish a national committee charged with the abolition of the country's confessional political system. His proposal was seconded by Speaker of the Parliament Nabih Berri, who vowed to set up the committee and implement the Ta'if Agreement's provisions on the abolition of political sectarianism. The president's proposal was met with resistance and scepticism in Lebanon's wider political circles, thus casting doubt on whether the country is indeed ready to part with its confessional political system.

Sectarian tensions continue to underlie Lebanon's fragile balance of power. The assassination of Lebanon's Sunni Prime Minister, Rafik Hariri, in February 2005 created a rivalry between pro-Syrian political groups (otherwise known as the March 8 Alliance), and pro-Western political parties (otherwise known as the March 14 Alliance). The March 8 Alliance consists mainly of the Hezbollah and Amal Shi'ite groups, and followers of the Free Patriotic Movement's Maronite leader Michel

## 'I feel that my basic freedoms and rights are violated'

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**Lubna Mohamad, a Muslim Palestinian residing in Ramallah, talks to Lena El-Malak about how difficult it is for Palestinians living under occupation to access religious sites in the West Bank and East Jerusalem. While Palestinians do not constitute a minority in the OPT, Lubna's issues of access reflect the severe restrictions also facing Israeli Arabs when trying to visit Muslim and Christian holy sites in the West Bank. This continued to be true during 2009. Age restrictions concerning access to the al-Aqsa mosque also apply to Palestinians living in Jerusalem.**

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Lubna says that in the case of occupied East Jerusalem, the obstacles are often impossible to overcome.

*'Although I live in Ramallah, which is only a 15-minute drive from Jerusalem, I have not been able to visit Jerusalem in years. In order for a West Banker to enter the holy city, they need to get a permit from the Israelis. Unless there is a compelling reason, like a critical medical condition requiring urgent treatment in Jerusalem, the Israelis do not grant permits to enter the city. Only women over 55 and men over 60 can request a permit to enter Jerusalem to pray in the al-Aqsa mosque. Since I am under the age of 55, I have not been able to enter Jerusalem in years.'*

Prompted to talk about how this makes her feel, Lubna said:

*'I feel that my basic freedoms and rights are violated. I am denied the right to freedom of movement and,*

*as a consequence of that, I am also deprived of my rights as a Muslim, to access and pray in holy sites located in East Jerusalem. Jerusalem is essentially sealed off, and Palestinians in the West Bank are walled in.'*

She adds:

*'The difficulty is not only in accessing Jerusalem. It is also not easy for a Palestinian living under the occupation to travel from one town in the West Bank to another. For instance, if I wish to pray in the tomb of the biblical patriarch Abraham in Hebron (Haram il Ibrahim), which is a holy site for Muslims, I would first have to cross three Israeli military checkpoints to reach Hebron. Although Hebron is only about an hour's drive from Ramallah, I need at least two and a half hours to get there because of the checkpoints. Assuming the Israelis let me into the city, I would still need permission from the Israeli army to enter the area of the Haram il Ibrahim mosque. Because the army is often suspicious of people who are visiting from outside Hebron, when they check my ID and discover that I am a resident of Ramallah, they can deny me entry to the area where the mosque is located. Sometimes, residents of Hebron are also denied entry to that area under the pretext that it may endanger the security of the 400 settlers who have occupied it.'*

Lubna points out that the problem is not just one of access to holy sites. It is also about the security of those who are praying in these sites.

*'Just think of the massacre of worshippers in the Haram il Ibrahim mosque in Hebron in 1996 by a Jewish settler. Worshippers have also been attacked while praying in the al-Aqsa mosque in occupied East Jerusalem, and the Church of Nativity in Bethlehem was under siege for several weeks in 2002. So, the issue really is the occupation. It is not just about removing a few checkpoints or allowing access to one holy site or another. It is about putting an end to the illegal Israeli military occupation of the West Bank and East Jerusalem.'* ■

Aoun, while the March 14 Alliance consists of the Future Movement led by Saad Hariri, the son of the slain prime minister, and the Lebanese Forces led by Maronite leader Samir Geagea. A tight race during the parliamentary elections of 7 June 2009 ended with the victory of the March 14 Alliance and the appointment of Saad Hariri as prime minister. After five months of intense negotiations with the opposition, Hariri was finally able to form a national unity government on 10 November 2009. He also made a landmark visit to Syria in December 2009, which marked the end of five years of animosity between Damascus and the March 14 Alliance, led by Hariri.

Although its confessional distribution of public offices may be viewed as inherently discriminatory, Lebanon's government generally respects religious rights. Lebanon's Constitution protects religious freedom and the freedom to practise all religious rites, provided that the public order is not disturbed. Religious groups are, however, legally required to register with the government in order to conduct most religious activities. There are 18 officially recognized religious groups in Lebanon. The two largest Muslim groups are Sunnis (28 per cent of the population) and Shias (28 per cent of the population), according to the most recent demographic study conducted by Statistics Lebanon, a Beirut-based research firm. There is also a smaller community of Alawites and Ismailis. Christians make up over a third of the population (21.5 per cent are Maronites, 8 per cent are Greek Orthodox and another 4 per cent are Greek Catholic), while Druze amount to 5 per cent. Lebanon is also home to a declining Jewish minority, which is now estimated to have just 100–150 members.

Lebanon's Jews have been without a place of worship since Israeli shelling destroyed their synagogue in 1982. Plans to repair the capital's remaining synagogue were suspended in 2009 as funding failed to materialize, thus forcing the Lebanese Jewish Community Council to appeal to the international community for help to carry on the work.

Israel's military assault on the Gaza Strip, along with anti-Israeli literature published and distributed mainly by Hezbollah, have served to blur the lines between Israelis and Jews. USCIRF 2009 reported continued acts of vandalism committed against a Jewish-owned cemetery in downtown Beirut. Government documents referring to Jewish Lebanese citizens as 'Israelis' have added to this

confusion, and to the increasing level of hostility towards Lebanon's Jewish community. In April 2009, Interior Minister Ziad Baroud submitted a proposal to the cabinet to amend legislation by referring to 'Jewish Lebanese' citizens instead of 'Israelis'.

The government does not, however, require citizens' religious affiliations to be indicated on their passports. A circular issued by the Ministry of Interior on 11 February 2009 removed the requirement to inscribe a citizen's religious affiliation on national identity cards and civil registry records. HRW viewed this move as a step in the right direction, while noting that further steps were needed for Lebanon to meet its international human rights obligations. USCIRF 2009 highlighted the disadvantaged status under the law of unrecognized religious groups, such as Baha'is, Buddhists and Hindus, who are required to register as part of another recognized religious organization in order to marry, divorce or inherit property in Lebanon.

According to UNRWA, Lebanon is home to about 422,000 Palestinian refugees, or an estimated 10 per cent of the population. These refugees continue to be denied basic social and civil rights, such as the right to own property. Considered as foreigners under Lebanon's current labour law, they are prohibited from working in any syndicated profession. This has forced many Palestinian refugees to work illegally, rendering them vulnerable to exploitation and discrimination. The Lebanese Palestinian Dialogue Committee (LPDC), established in 2005 by the Lebanese Council of Ministers, has recently submitted a detailed plan to the government reforming Lebanese labour law to facilitate Palestinian employment. The plan is still being reviewed by the government.

### Saudi Arabia

As with most countries in the Gulf region, Saudi Arabia is home to a large expatriate community. About 10 million foreigners, nearly half the country's population, reside in various parts of the Kingdom. There are no official statistics of the religious denominations of foreigners. They include Hindus, Christians, Sikhs and Muslims. As for Saudi's citizens, 85–90 per cent of them are Sunni Muslim, while the remaining 10–15 per cent are Shia.

According to the Kingdom's Basic Law, the Qur'an and the Sunnah (the Prophet's sayings and

traditions) are the country's Constitution. Arabic is its sole official language. The government's official interpretation of Islam is derived from the teachings of an eighteenth-century Sunni religious scholar, Ibn Abd'Al-Wahhab, and is otherwise known as Wahhabism. Freedom of religion is not explicitly protected under the law and is severely restricted in practice. Non-Muslims and many Muslims who have not espoused Wahhabism are only allowed to practise their religion in private. Their right to worship is not, however, defined in law and it is not always respected. The Commission for the Promotion of Virtue and the Prevention of Vice (CPVPV), Saudi Arabia's 'religious police', charged with monitoring social behaviour and enforcing Wahhabi principles of morality, continues to conduct raids on private non-Muslim religious gatherings, USCIRF 2009 recorded. It documented cases where the CPVPV also harasses women, especially foreign Muslim women, for failure to observe strict dress codes, particularly failure to wear headscarves.

Further, USCIRF 2009 noted that Muslims who do not adhere to the government's interpretation of Sharia also faced 'significant political, economic, legal, social, and religious discrimination, including limited employment and educational opportunities, under-representation in official institutions, and restrictions on the practice of their faith and on the building of places of worship and community centers.' The largest group affected is Saudi's Shia minority. Shias face systematic discrimination in education, employment, political representation, religious practice and the media. The government was reported to discriminate against Shias in the selection process for students, professors and administrators at public universities. Shia students also experienced intolerance within the primary and secondary school systems. There are few Shias in high-level positions in government-owned companies or in government agencies. Shias are also under-represented in senior government positions.

Many Shias are also subjected to systematic religious discrimination. The Ministry of Islamic Affairs Endowments Da'wa and Guidance (MOIA) does not supervise or finance the construction and maintenance of Shia mosques, unlike Sunni mosques. Shias are thus forced to rely entirely on private contributions to construct their mosques. They are also required to obtain the permission of the MOIA, the local municipality and the provincial

government in order to build a new mosque. Sunnis do not need the government's approval to construct new mosques. The government was reported to have denied Shias permission to construct or register community centres.

Hostility towards Saudi Arabia's Shia community led to clashes between Shias and the CPVPV in Medina in February 2009. The clashes triggered a wave of unrest, resulting in the arrest of dozens of people. To restore calm, King Abdullah released all the detainees but the situation remains volatile.

### Syria

The majority of Syria's population is Sunni Muslim (74 per cent). The country is also home to a number of other Muslim groups, including Alawites, who are a sect of Shia Islam, Ismailis and Shia. Together they constitute 13 per cent of the population. Druze account for another 3 per cent of the population, while various Christian groups make up the remaining 10 per cent. There is also a small Yezidi community of 30,000 members and between 100 and 200 Jews.

There is no official state religion. The Constitution requires, however, that the president be Muslim and stipulates that Islamic jurisprudence should be a principal source of legislation (Article 3). President Bashar al-Assad and his family are Alawites while his wife is a Sunni Muslim.

Syria's Constitution protects religious freedom and guarantees religious minorities the right to hold any religious rites, provided that they do not disturb the public order (Article 35). Notwithstanding these constitutional guarantees, the government has imposed some restrictions on the freedom to worship. The government continues to outlaw Jehovah's Witnesses and forbids them from drawing attention to their activities. The government also discourages proselytizing and does not recognize the religious status of Muslims who convert to Christianity. Interestingly, however, the government has allowed Shia missionaries to construct mosques and convert Sunnis. USCIRF 2009 noted that this type of missionary activity was not considered as proselytizing because the government does not distinguish between Islamic sects.

Religious laws continue to govern the marriages and divorces of the respective religious communities. According to USCIRF 2009, government-appointed religious judges have applied Sharia-based personal



**Left:** A congregation of Christian women during Sunday prayer in Kamishli church, Syria. *Alfredo Caliz/Panos.*

its sole official language. The Constitution does not provide explicit protections to religious or ethnic minorities. Muslims and followers of religious groups other than Islam are free to worship according to their beliefs. The government does, however, forbid conversion from Islam and the proselytizing of Muslims. According to statistics released by the UN news agency IRIN, Yemen's population is predominantly Muslim Arab, with Sunnis constituting 53 per cent of the population and Zaydi Shias 45 per cent.

Once a sizeable minority of 50,000–60,000 people, the majority of Yemeni Jews were flown to Israel after its establishment in 1948 as part of an international airlift known as 'Operation Magic Carpet'. The lifting of a subsequent travel ban in 1991 prompted about 1,200 Jews to emigrate, mainly to Israel. Only 370 Jews remain in Yemen today and their numbers are in steady decline. The majority of Yemen's Jews reside in Amran, a region in the north of the country, and there is a smaller community of about 60 Jews in the Yemeni capital Sana'a. At least two functioning synagogues remain in the Amran Governorate.

Hostility towards the country's small Jewish community has increased over the years. NGOs and community organizations have reported incidents of threats and murder. Although the perpetrator of one such crime was eventually sentenced to death in June 2009, the government's inability to protect this endangered community adequately from increased threats by Muslim extremists is reportedly forcing Yemen's remaining Jews to emigrate. In October 2009, the *Wall Street Journal*, the US-based international daily newspaper, published a report on a secret mission to bring some of Yemen's last remaining Jews to the United States. About 60 Yemeni Jews have resettled in the US since July 2009. Officials have indicated that another 100 could follow.

North Yemen faced what the UN described as a 'humanitarian catastrophe', with the number of displaced reaching 250,000 over the six-year conflict between the government and al-Houthi rebels. The militant group consists of followers of the late rebel cleric Hussein Badr Eddine al-Houthi, who led a

rebellion against the government before being killed in 2004. The rebels denounce years of discrimination against the minority Shia community in the north.

The Yemeni government accuses the Houthis of wanting to re-establish imamate rule and seeking the autonomy of the northern Sa'adah province. To quash these aspirations, the government launched an offensive against the rebel group in August 2009. Fighting escalated again in November, when some Houthis infiltrated Saudi Arabia, drawing it into the conflict. At the end of the year, there were reports that the militant group's leader, Abdul-Malik al-Houthi, had been severely wounded by Yemeni government forces. The fighting was ongoing in January 2010. ■

status law in a manner that discriminates against women. Syria's civil rights movements scored a minor victory, however, when, in July 2009, the Presidency of the Council of Ministers dismissed a personal status draft law proposed by religious conservatives and reversing progressive thinking on women's and children's rights. In November 2009, media reported that the draft law was returned to the Ministry of Justice and is currently under revision.

Although the government allows the various religious minority groups to worship freely, it closely monitors the activities of the Muslim Brotherhood and Salafist movements. The government has been homing in on Islamist groups, since an armed attack at a Shia shrine in September 2008 left 17 people dead. In January 2009, media reported that the Syrian government began a comprehensive overhaul of its regulation of Islamic schools after it was revealed that one of the persons behind the September attack had studied at a local religious institute. The government has not yet closed any

religious schools or institutes. According to *Syria Today*, it is, however, closely monitoring their sources of funding and has severed any ambiguous ties between charitable trusts and educational institutions.

Syria is also home to ethnic minorities, including Kurds and Palestinians. Syria's Kurds have faced discrimination for decades. According to the UN news agency IRIN, an estimated 220,000 have not been granted citizenship, thus prohibiting them from owning property and severely limiting their access to education and public sector jobs. Kurdish parties remain outlawed and the government continues to arrest individuals actively engaged in them. Government-run schools also prohibit Kurdish students from learning in their native tongue, although they are allowed to speak Kurdish in public.

### Yemen

According to the Constitution of the Republic of Yemen, Islam is the religion of the state and Arabic

## Peoples under Threat 2010

Mark Lattimer

### Introduction

Over the last five years, Peoples under Threat has pioneered the use of statistical analysis to identify situations around the world where communities are at risk of mass killing. The Peoples under Threat index is created from a basket of ten indicators, all known antecedents to mass violence. On numerous occasions in those five years, countries that have risen sharply up the table have later proved to be the scene of gross human rights violations.

But there is perhaps one factor which more than any other can indicate a propensity to mass killing. It is a crude pointer, but one which is nonetheless often overlooked in the scramble for geo-political alliances or even sometimes in the name of reconciliation: those governments who are most likely to kill their own people are those who have done it before.

### The risk from past offenders

The list of states that have risen most prominently in the Peoples under Threat table this year (see table below) highlights this problem of recidivism. It includes a number of states which have been the scene of past violence, and whose fall down the risk register in recent years has now suddenly been reversed.

A decrease in conflict in Sudan's Darfur region and the recent signing of a peace accord between the government and the Justice and Equality Movement, the main rebel faction, have given rise to new hopes for the human rights situation in Sudan. However, the primary threat now moves to the country's south. A re-ignition of the north-south war, which until 2005 was Africa's longest conflict and claimed some 2 million lives, could be catastrophic. The last year has seen clashes in disputed areas and thousands of deaths in Jonglei from inter-ethnic fighting – fuelled by the Sudanese government, the south alleges. In Sudan's spring elections, a partial boycott by the Sudan People's Liberation Movement, the main party in the south, has further heightened tensions. In the run-up to a referendum on independence for the south in 2011, it is reported that both sides are re-arming. Sudan, which in recent years fell from 2nd place to 3rd in the Peoples under Threat table, has now risen again, with the new risk coming in particular to the peoples of the south, including the Dinka and Nuer.

Perhaps the most startling riser in the table this year is the Russian Federation, which has risen seven places. Although under-reported, conflict has escalated again both in Chechnya and in the neighbouring Russian republics of Ingushetia and Dagestan. In March 2010, suicide bombers believed to be from the North Caucasus killed 39 people on the Moscow underground, prompting Prime Minister Vladimir Putin to vow that the security services would scrape those responsible from the bottom of

### Major risers since 2009

Rank	Rise in rank since 2009	Country	Group	Total
2	1	Sudan	Dinka, Nuer and others in the South; Fur, Zaghawa, Massalit and others in Darfur; Nuba, Beja	21.95
16	7	Russian Federation	Chechens, Ingush and others in North Caucasus; indigenous northern peoples, Roma, Jews	15.57
17	2	Philippines	Indigenous peoples, Moros (Muslims), Chinese	14.82
20	5	Yemen	Zaydi Shia	14.35
26	3	Equatorial Guinea	Bubi, Annobon Islanders	13.39
27	6	Georgia	Adzhars, Abkhazians, South Ossetians	13.37
36	17	Thailand	Chinese, Malay-Muslims, Northern Hill Tribes	12.35
42	7	China	Tibetans, Uighurs, Mongols, Hui, religious minorities	11.77
49	11	Venezuela	Indigenous peoples, Afro-descendants	11.10
51	New entry	Mauritania	Haratins ('Black Moors'), Kewri	10.97

the sewers. The combination of circumstances is dangerously close to those that prevailed in 1999 before the start of the second Chechen war, which caused the deaths of at least 25,000 civilians.

Russia's influence is also a central factor in the continued rise to the threat level in Georgia, which has jumped a further six places in the table this year. Tensions between the two countries over Georgia's breakaway republics of Abkhazia and South Ossetia has remained high. An independent fact-finding mission sponsored by the EU concluded in September 2009 that the 2008 war between Russia and Georgia had been triggered by the Georgian offensive against South Ossetia, but found violations of international law committed by both sides. The prospects for tens of thousands of displaced ethnic Georgians from both South Ossetia and Abkhazia in particular appear grim. There have been few reports of human rights violations against ethnic Russians in Georgia, but stunts such as the simulated news report of a Russian invasion broadcast by Georgian television in March 2010 have not improved the atmosphere.

Across the globe, another old conflict threatens to escalate once more in the Philippines. Failure of a peace deal between the government and Muslim separatists in Mindanao led to renewed military operations in 2009. Fifty-seven people on their way to file election papers were killed in a massacre in November. Some peace talks have resumed with the return of international monitors, but the proliferation of different armed groups in conflict with the Phillipines army, and violence associated with the scheduled elections in May 2010 both pose threats to communities in Mindanao.

In both the Philippines and in Yemen, which uniquely have risen in the ranking four years in a row, parts of the armed opposition have been linked with al-Qaeda, drawing international attention. The Yemeni government called on the West for more help to fight al-Qaeda at the end of the year, although its greater security concerns stem from the conflict with al-Houthi rebels in the north, a group pushing for autonomy for the Zaydi Shia community. With fresh fighting in September, aid agencies warned the country was facing a 'full-blown humanitarian crisis'. Cross-border incursions prompted the military involvement of Saudi Arabia in November. Some 250,000 people are internally displaced.

China has also highlighted the influence of radical Islam on Uighur separatists in the autonomous region

of Xinjiang, pointing to the presence of Uighur fighters in the Afghanistan war. In July 2009, a protest in Urumqi led to days of rioting and violence between Uighurs and China's majority Han, millions of whom have moved to Xinjiang in state-sponsored migration. Nearly 200 people were killed in the violence; dozens of Uighurs later disappeared in a wave of arrests by the Chinese authorities.

### Ethnic wars, religious wars?

The perspectives of the post-9/11 world have recast as wars of religion minority struggles that are in many cases decades old. Whether in South Sudan, the North Caucasus, Mindanao, Yemen or Xinjiang, there is a tendency, particularly in the United States, to highlight the religious aspects of situations which only a few years ago were regularly described as ethnic conflicts. In fact, it could be argued that both ethnic and religious differences have primarily been abused by politicians – national and international – either to mobilize or to stigmatize particular communities, and that the real roots of such conflicts lie not in religious ideology but in peoples' long-term economic marginalization and their aspirations for greater autonomy over their own affairs.

This point should be carefully borne in mind should widespread conflict return to these parts of the world. There are clear dangers inherent in exaggerating the religious nature of community divisions. For one thing, since 9/11 governments of every political hue have become adept at justifying the violent repression of minorities, particularly but not exclusively Muslim minorities, under the banner of the 'war on terrorism'. At the same time, for governments or the international community to see complex conflicts primarily through a religious lens suits the agenda of Islamic extremists, who can claim impacts far beyond their often very limited military capacities. Finally, and perhaps most worryingly, if governments behave as if conflicts are all about religion, then increasingly they become entrenched, conflicts can be much harder to resolve.

All these factors are apparent in the continuing conflict in Afghanistan and the tribal areas of Pakistan, where MRG has reported that the local Pashtun community, as well as smaller minorities, have suffered mass displacement and serious human rights violations as a result of military operations. US and NATO forces have long admitted the neces-

sity of negotiating with tribal leaders, but the appalling human cost of the war on civilians continues to radicalize new generations of people who face grinding poverty and a lack of other economic or political opportunity.

In Thailand, which has risen 17 places in the table, political demonstrations in the capital have captured international attention. But the greatest threat of violence against civilians comes in the country's south, where a state of emergency has been in force since 2005 in response to the challenge from Malay-Muslim separatists. Credible allegations of widespread torture against Muslims have been denied by the government, but some 4,000 people have died in a conflict whose roots, once again, lie in grievances about regional economic underdevelopment and political exclusion.

### Those at greatest risk

Highlighting the states that have risen in the table, where there are *new or increased* threats, should not, however, detract attention from those states that have remained at the head of the table, where peoples face the greatest threats. In Somalia, Iraq, Burma/Myanmar and the Democratic Republic of Congo, as well as in some of the states already discussed, gross violations of the rights of minorities, including multi-

ple or mass killings, are ongoing.

Despite claims of recent progress, Somalia and Iraq remain entrenched in the top three. In Somalia, the Bantu minority and the Gaboye or occupational 'caste' groups have both fared very badly in the country's long-running conflict, a long history of marginalization being compounded by the lack of any effective security protection. In a war which rarely makes the front pages, they are truly Somalia's forgotten people. But other communities remain at risk too, including from the inter-clan rivalry that has taken so many Somali lives in recent decades.

In Iraq, a welcome decline in Sunni-Shia violence, and the formation of more plural political groupings in the recent elections are all cause for hope. But tension between Kurds and Arabs over disputed territories in the north now means that Nineveh and Kirkuk have become Iraq's most dangerous governorates. It is here that many of the smaller minority communities live. Chaldo-Assyrians, Shabak, Turkmen and Yezidis have all suffered violent attacks in the last year and remain at grave risk of mass displacement.

### Can international justice help?

On 4 March 2009 the International Criminal Court (ICC) issued an arrest warrant for the President of Sudan, Omar al-Bashir, on charges of war crimes and

### Peoples most under threat – highest rated countries 2010

Rank	Country	Group	Total
1	Somalia	Bantu; Gabooye (Midgan) and other 'caste' groups	23.63
2	Sudan	Dinka, Nuer and others in the South; Fur, Zaghawa, Massalit and others in Darfur; Nuba, Beja	21.95
3	Iraq	Shia, Sunnis, Kurds, Turkmen, Christians, Mandaeans, Yezidis, Shabak, Failsi Kurds, Baha'is, Palestinians	21.90
4	Afghanistan	Hazara, Pashtuns, Tajiks, Uzbeks, Turkmen, Baluchis	21.39
5	Burma/Myanmar	Kachin, Karenni, Karen, Mons, Rakhine, Rohingyas, Shan, Chin (Zomis), Wa	21.06
6	Pakistan	Ahmaddiya, Balochis, Hindus, Mohhajirs, Pashtuns, Sindhis, other religious minorities	20.55
7	Dem. Rep. of the Congo	Hema and Lendu, Hunde, Hutu, Luba, Lunda, Tutsi/Banyamulenge, Twa/Mbuti	19.91
8	Ethiopia	Anuak, Afars, Oromo, Somalis, smaller minorities	19.23
9	Nigeria	Ibo, Ijaw, Ogoni, Yoruba, Hausa (Muslims) and Christians in the North	18.58
10	Chad	'Black African' groups, Arabs, Southerners	18.15

crimes against humanity in Darfur. The prosecutor's decision to seek an open warrant against Bashir followed the failure of the Sudanese government to enforce arrest warrants against two more junior Sudanese leaders accused over Darfur. Eliciting a storm of controversy, the prosecutor's move could be seen in the light of his oft-repeated comments that the ICC has a role not just in securing justice for past crimes but also in deterring future abuses.

Can the threat of being held accountable before the ICC stay the hand of Sudan's leaders over this defining year for the country's future? In particular, can the sort of mass killings that characterized the Darfur conflict and the earlier north-south war be averted? It is not only in Sudan that such questions will be put this year. Ever since it became apparent in 2003 that the ICC's first cases would be in the DRC, discussion of the Court's next move has become a feature of Congolese politics. While four Congolese warlords are currently facing trial in the Hague, another high-profile indictee remains at large, fighting in the current conflict in the Kivus as a general in the Congolese army.

Guinea, which suddenly rose eight places in the Peoples under Threat table last year, was later the scene of what the UN High Commissioner on Human Rights described as a 'bloodbath', as over 150 people were massacred at a demonstration in September. The ICC confirmed within a month that its prosecutor had begun a preliminary examination

of the 'serious allegations'. And in Kenya, where over 1,200 people were killed in inter-ethnic violence after the 2007 elections, failure by the Kenyan government to put those responsible on trial has prompted the ICC to approve the opening of a formal investigation. The Kenyan government announced in November that it will cooperate.

The Russian government called the Bashir warrant 'a dangerous precedent'. Like two other permanent members of the UN Security Council, the US and China, Russia has not ratified the ICC Statute, making its leaders harder to prosecute if they commit war crimes. But that does not mean that the Russian government is entirely immune from the processes of international justice, at least in its civil form. In a series of damning judgments this decade, the European Court of Human Rights has censured Russia for gross violations of human rights committed during the second Chechen war, confirming that the obligation to respect the right to life that prevails in peacetime cannot simply be ignored when a state faces a military threat.

The potential deterrent effect of international justice is still hard to gauge. Some of the key mechanisms are new, particularly with regard to criminal law, and the evidence base is small. But as mass violence threatens to return to some of the most notorious past killing grounds, this year will be a signal test.

### How is *Peoples under Threat* calculated?

Since the genocide in Rwanda in 1994, our ability to identify those situations most likely to lead to genocide or mass killing has improved. A number of comparative studies of the factors preceding historic episodes of political mass killing had been undertaken since the 1970s, including by Helen Fein and Ted Robert Gurr, but it was not until the 1990s that researchers such as Rudolf Rummel and Matthew Krain pioneered quantitative longitudinal analysis of a wide range of such factors, enabling the testing of different causal hypotheses. Rummel, for example, showed the very strong relationship between concentration of government power and state mass murder; Krain demonstrated the correlation between exist-

ing armed conflict or political instability and the onset and severity of mass killing.

Following the early work of the Clinton administration's policy initiative on genocide early warning and prevention, Professor Barbara Harff, a senior consultant with the US State Failure Task Force, constructed and tested models of the antecedents of genocide and political mass murder and her results were published in 2003 ('Assessing Risks of Genocide and Political Mass Murder since 1955', *American Political Science Review* 97, February 2003). Her optimal model identifies six preconditions that make it possible to distinguish, with 74 per cent accuracy, between internal wars and regime collapses in the period 1955-1997 that did, and those that did not, lead to genocide

and political mass murder (politicide). The six preconditions are: political upheaval; previous genocides or politicides; exclusionary ideology of the ruling elite; autocratic nature of the regime; minority character of the ruling elite; and low trade openness.

Minority Rights Group International (MRG) has drawn on these research findings to construct the Peoples under Threat table, although responsibility for the final table is exclusively our own. Peoples under Threat is specifically designed to identify the risk of genocide, mass killing or other systematic violent repression, unlike most other early warning tools, which focus on violent conflict as such. Its primary application is civilian protection.

Indicators of conflict are included in the table's construction, however, as most, although not all, episodes of mass ethnic or religious killing occur during armed conflicts. War provides the state of emergency, domestic mobilization and justification, international cover and, in some cases, the military and logistic capacity, that enable massacres to be carried out. Some massacres, however, occur in peacetime, or may accompany armed conflict from its inception, presenting a problem to risk models that focus exclusively on current conflicts. In addition, severe and even violent repression of minorities may occur for years before the onset of armed conflict provides the catalyst for larger-scale killing.

The statistical indicators used all relate to the state. The state is the basic unit of enquiry, rather than particular ethnic or religious groups at risk, as governments or militias connected to the government are responsible for most cases of genocidal violence. Formally, the state will reserve to itself the monopoly over the means of violence, so that where non-state actors are responsible for widespread or continued killing, it usually occurs with either the complicity of the state or in a 'failed state' situation where the rule of law has disintegrated. Certain characteristics at the level of the state will greatly increase the likelihood of atrocity, including habituation to illegal violence among the armed forces or police, prevailing impunity for human rights violations, official tolerance or encouragement of hate speech against

particular groups and, in extreme cases, prior experience of mass killing. Egregious episodes of mass killing targeted principally at one group have also seen other groups deliberately decimated or destroyed.

However, some groups may experience higher levels of discrimination and be at greater risk than others in any given state. MRG has identified those groups in each state that we believe to be under most threat. (This does not mean that other groups, or indeed the general population, may not also be at some risk.) It should be noted that, although these groups are most often minorities, in some cases ethnic or religious majorities will also be at risk and in relevant cases are therefore also listed in the table. In some cases, all the groups in the country are at risk of ethnic or sectarian killing.

One indicator that has been tested and discarded by a number of studies is the general level of ethnic or cultural diversity in a society. Krain did not find any correlation between 'ethnic fractionalization' and the onset of genocide or political mass killing. Similarly, neither of the patterns of ethnic diversity tested by Harff had any effect on the likelihood of mass killing (although she did find the minority character of the ruling elite to be significant). These findings are supported by research on the relationship between diversity and conflict.

The overall measure is based on a basket of ten indicators. These include indicators of democracy or good governance from the World Bank, conflict indicators from the Center for Systemic Peace and other leading global conflict research institutes, indicators of group division or elite factionalization from the Fund for Peace and the Carnegie Endowment for International Peace, the State Failure Task Force data on prior genocides and politicides, and the country credit risk classification published by the Organisation for Economic Co-operation and Development (as a proxy for trade openness). For citations and further information, see the notes to the table. For a fuller discussion of the methodology, see *State of the World's Minorities 2006*.

Based on current indicators from authoritative sources, Peoples under Threat seeks to identify those groups or peoples most under threat in 2010. ■

Country	Group	Conflict indicators			Indicators of group division			Democracy/governance indicators				Total
		A. Self-determination conflicts	B. Major armed conflict	C. Prior genocide/politicide	D. Massive movement – refugees and IDPs	E. Legacy of vengeance – group grievance	F. Rise of factionalized elites	G. Voice and accountability	H. Political stability	I. Rule of law	J. OECD country risk classification	
Somalia	Bantu; Gabooye (Midgan) and other 'caste' groups	4	2	1	9.9	9.7	10	-1.85	-3.28	-2.690	7	23.63
Sudan	Dinka, Nuer and others in the South; Fur, Zaghawa, Massalit and others in Darfur; Nuba, Beja	5	2	1	9.8	9.9	9.5	-1.77	-2.44	-1.500	7	21.95
Iraq	Shia, Sunnis, Kurds, Turkmen, Christians, Mandaeans, Yezidis, Shabak, Faily Kurds, Baha'is, Palestinians	5	2	1	8.9	9.7	9.6	-1.26	-2.69	-1.870	7	21.90
Afghanistan	Hazara, Pashtuns, Tajiks, Uzbeks, Turkmen, Balochis	4	2	1	8.9	9.6	9.1	-1.26	-2.64	-2.010	7	21.39
Burma/ Myanmar	Kachin, Karenni, Karen, Mons, Rakhine, Rohingyas, Shan, Chin (Zomis), Wa	5	2	1	8.8	8.9	8.7	-2.24	-1.56	-1.480	7	21.06
Pakistan	Ahmaddiya, Balochis, Hindus, Mohajirs, Pashtuns, Sindhis, other religious minorities	5	2	1	8.6	9.6	9.6	-1.01	-2.61	-0.920	7	20.55
Dem. Rep. of the Congo	Hema and Lendu, Hunde, Hutu, Luba, Lunda, Tutsi/Banyamulenge, Twa/Mbuti	2	2	1	9.6	8.9	8.7	-1.48	-2.34	-1.680	7	19.91
Ethiopia	Anuak, Afars, Oromo, Somalis, smaller minorities	5	2	1	8	8.2	8.8	-1.3	-1.79	-0.600	7	19.23
Nigeria	Ibo, Ijaw, Ogoni, Yoruba, Hausa (Muslims) and Christians in the North	5	2	1	5.3	9.7	9.6	-0.6	-2.01	-1.120	6	18.58
Chad	Black African groups, Arabs, Southerners	3	2	0	9.4	9.8	9.8	-1.45	-1.92	-1.570	7	18.15
Israel/OPT	Palestinians in Gaza/West Bank, Israeli Palestinians	5	2	0	8	9.3	8.0	-0.94	-1.76	-0.810	8	17.73
Zimbabwe	Ndebele, Europeans, political/ social targets	2	0	1	9.1	9.1	9.5	-1.52	-1.56	-1.810	7	16.88
Sri Lanka	Tamils, Muslims	4	1	1	9.3	9.8	9.2	-0.44	-2.04	0.010	6	16.19
Iran	Arabs, Azeris, Baha'is, Balochis, Kurds, Turkmen	5	0	1	8.5	7.6	9.1	-1.48	-1.06	-0.800	6	15.79
Central African Republic	Kaba (Sara), Mboum, Mbororo, Aka	0	2	0	9	8.6	9.5	-1.00	-1.77	-1.440	7	15.60
Russian Federation	Chechens, Ingush and others in North Caucasus; indigenous northern peoples, Roma, Jews	5	2	1	5.9	7.5	8.0	-0.97	-0.62	-0.910	4	15.57
Philippines	Indigenous peoples, Moros (Muslims), Chinese	5	2	1	6.3	7.5	7.9	0.2	-1.41	-0.490	4	14.82
Burundi	Hutu, Tutsi, Twa	0	1	1	8.1	7.5	7.7	-0.66	-1.43	-1.070	7	14.67
Cote d'Ivoire	Northern Mande (Dioula), Senoufo, Bete, newly settled groups	0	1	0	7.8	9	8.5	-1.24	-1.91	-1.520	7	14.51
Yemen	Zaydi Shia	0	2	0	7.9	7.7	9.0	-1.18	-1.89	-0.930	6	14.35
Lebanon	Druze, Maronite Christians, Palestinians, Shia, Sunnis	2	1	0	9	9.2	9.1	-0.4	-1.94	-0.730	7	14.25
Angola	Bakongo, Cabindans, Ovimbundu, Pastoralists, San and Kwisi	4	0	1	7	6.1	7.3	-1.07	-0.43	-1.280	6	13.93
Nepal	Madhesbis (Terai), Dalits, linguistic minorities	2	1	0	6.8	8.7	8.4	-0.79	-1.69	-0.760	7	13.85

Country	Group	Conflict indicators			Indicators of group division			Democracy/governance indicators				Total
		A. Self-determination conflicts	B. Major armed conflict	C. Prior genocide/politicide	D. Massive movement – refugees and IDPs	E. Legacy of vengeance – group grievance	F. Rise of factionalized elites	G. Voice and accountability	H. Political stability	I. Rule of law	J. OECD country risk classification	
Uganda	Acholi, Karamojong	1	1	1	9.3	8	8.2	-0.47	-0.88	-0.510	6	13.61
Indonesia	Acehnese, Chinese, Dayaks, Madurese, Papuans	4	1	1	6.7	6.3	7.3	-0.14	-1.00	-0.660	5	13.56
Equatorial Guinea	Bubi, Annobon Islanders	2	0	1	2	6.8	8.6	-1.89	0.09	-1.310	7	13.39
Georgia	Adzhars, Abkhazians, South Ossetians	5	1	0	8.3	8.5	8.9	-0.25	-1.00	-0.340	6	13.37
Bosnia and Herzegovina	Croats, Bosniac Muslims, Serbs, Roma	4	0	1	7.2	8.2	8.7	0.000	-0.57	-0.350	7	13.31
Guinea	Fulani, Malinke	0	0	0	7.1	8.2	9.2	-1.32	-1.91	-1.600	7	13.29
Colombia	Political/social targets, Afro-descendants, indigenous peoples	3	2	0	9.2	7.2	8.0	-0.26	-1.66	-0.500	4	12.99
Syria	Kurds	0	0	1	9.2	8.2	7.8	-1.75	-0.56	-0.540	6	12.80
Haiti	Political/social targets	0	1	0	5.8	7.3	8.3	-0.71	-1.39	-1.350	7	12.64
Algeria	Berbers, Sahrawi	2	1	1	6.7	7.7	6.7	-1.05	-1.15	-0.700	3	12.54
Laos	Hmong, other highland peoples	4	0	0	5.9	7	8.3	-1.71	-0.01	-0.900	7	12.53
Serbia	Ethnic Albanians, Croats, Roma, Ashkali, Serbs and other minorities in Kosovo	4	0	1	7.3	7.9	7.9	0.190	-0.50	-0.460	6	12.37
Thailand	Chinese, Malay-Muslims, Northern Hill Tribes	5	2	0	6.5	8	8	-0.56	-1.19	0.030	3	12.35
Rwanda	Hutu, Tutsi, Twa	0	0	1	6.9	8.7	8.0	-1.24	-0.14	-0.500	7	12.19
Eritrea	Afars, Saho, Tigre, religious minorities	0	0	0	7	5.8	7.7	-2.2	-0.84	-1.240	7	12.07
Turkey	Kurds, Alevis, Roma, Armenians and other Christians	5	2	0	6.6	7.7	7.8	-0.19	-0.73	0.090	4	12.01
Uzbekistan	Tajiks, Islamic political groups, religious minorities, Karakalpaks, Russians	1	0	0	5.3	7.4	9.0	-1.90	-0.91	-1.180	6	11.86
Kenya	Borana, Kalenjin, Kikuyu, Luyha, Luo, Muslims, Turkana, Endorois, Masai, Ogiek, other indigenous groups	0	1	0	9	8.6	8.8	-0.16	-1.25	-0.980	6	11.79
China	Tibetans, Uighurs, Mongols, Hui, religious minorities	5	0	1	6.8	7.9	7.2	-1.72	-0.32	-0.330	2	11.77
Azerbaijan	Armenians	4	0	0	8.2	7.9	7.9	-1.23	-0.48	-0.760	5	11.60
Niger	Djerema-songhai, Hausa, Tuaregs	3	0	0	6.4	8.5	7.1	-0.41	-0.75	-0.800	7	11.50
Djibouti	Afars	3	0	0	6.4	5.7	6.9	-1.12	-0.13	-0.540	8	11.46
Cambodia	Cham, Vietnamese, indigenous hill tribes (Khmer Leou)	0	0	1	5.2	7	7.5	-0.94	-0.27	-1.080	6	11.32
Cameroon	Westerners	2	0	0	7.5	7.2	8.7	-1.02	-0.53	-0.990	6	11.19
Tajikistan	Uzbeks, Russians	0	0	0	6.4	6.9	8.4	-1.32	-0.74	-1.120	7	11.17
Venezuela	Indigenous peoples, Afro-descendants	0	0	0	5	7	7.7	-0.62	-1.23	-1.590	7	11.10
Ecuador	Afro-descendants, Indigenous peoples	2	0	0	6.3	6.3	7.8	-0.22	-0.83	-1.230	7	11.06
Mauritania	Haratins ('Black Moors'), Kewri	0	0	0	6.2	8.2	8.0	-0.92	-0.93	-1.010	7	10.97
Bolivia	Indigenous Highland, Indigenous Lowland, Afro-Bolivians	2	0	0	4.9	7.5	8.2	-0.01	-1.02	-1.120	7	10.96

Country	Group	Conflict indicators			Indicators of group division			Democracy/governance indicators				Total
		A. Self-determination conflicts	B. Major armed conflict	C. Prior genocide/politicide	D. Massive movement – refugees and IDPs	E. Legacy of vengeance – group grievance	F. Rise of factionalized elites	G. Voice and accountability	H. Political stability	I. Rule of law	J. OECD country risk classification	
Congo (Rep.)	Lari, M'Boshi, Aka	0	0	0	7.8	6.5	7.1	-1.16	-0.61	-1.160	7	10.87
Vietnam	Montagnards (Degar), other highland peoples, religious minorities	2	0	1	5.3	5.5	7.1	-1.62	0.32	-0.430	5	10.84
Kyrgyzstan	Uzbeks, Russians	1	0	0	5.3	7.2	7.3	-0.72	-0.68	-1.260	7	10.84
North Korea	Political/social targets, religious minorities	0	0	0	6	7.2	7.8	-2.21	0.35	-1.060	7	10.79
Moldova	Trans-Dniester Slavs	4	0	0	4.2	7.1	8.0	-0.27	-0.38	-0.460	7	10.70
Liberia	Dan, Krahn, Ma, other groups	0	0	0	8	6.1	7.9	-0.29	-0.99	-1.230	7	10.55
Nicaragua	Indigenous peoples, Creoles	3	0	0	5.2	6.3	7.2	-0.14	-0.39	-0.860	7	10.38
Guinea Bissau	Balanta, Fula (Fulani), Manjaco (Manjack or Mandiyako), Mandinga (Mandinka), Papel (Pepe), Ejamat (Felupe), Jola (Diola), Susu, Cape Verdeans	0	0	0	6.5	5.8	8	-0.79	-0.38	-1.430	7	10.36
India	Assamese, Bodos, Nagas, Tripuras, other Adivasis, Kashmiris, Sikhs, Muslims, Dalits	5	2	0	4.9	7.3	6.0	0.453	-0.99	0.122	3	10.32
Guatemala	Indigenous peoples, Garifuna	0	0	1	5.8	6.7	6.3	-0.26	-0.58	-1.100	5	10.20
Cuba	Political/social targets, Afro-Cubans	0	0	0	5.9	5.5	7.1	-1.85	0.04	-0.850	7	10.12
Armenia	Armenians, Yezidi Kurds, Russians, Assyrians, Kurds, Ukrainians, Greeks	4	0	0	7.2	6	6.9	-0.66	0.01	-0.360	6	10.11
Turkmenistan	Uzbeks, Russians, Kazakhs, religious minorities	0	0	0	4.8	6.5	7.7	-2.06	0.23	-1.300	6	10.04
Belarus	Poles	0	0	0	4.1	6.9	8.1	-1.60	0.45	-1.000	7	9.71
Togo	Ewe, Kabre	0	0	0	6	5.8	7.3	-1.13	-0.10	-0.800	7	9.59
Sierra Leone	All groups incl. Krio, Limba, Mende, Temne	0	0	0	6.9	6.6	7.7	-0.28	-0.23	-1.030	7	9.45
Fiji	East Indians, Fijians	0	0	0	4.3	7.3	8.2	-0.65	0.05	-0.520	8	9.42
Bhutan	Lhotshampa, Nepalese	2	0	0	7.5	7.9	7.7	-0.73	0.89	0.37	8	9.33

## Notes to Table

Sources of the indicators are as follows:

- *Conflict indicators*: The base data used was Monty G. Marshall, 'Major episodes of political violence 1946–2009' (Center for Systemic Peace, 2009) and, for self-determination conflicts, Monty G. Marshall and Ted R. Gurr, 'Peace and conflict 2005' (CIDCM, University of Maryland, 2005) updated for 2009 using figures from Center for Systemic Peace, MRG and the Heidelberg Institute for International Conflict Research.

Self-determination conflicts in 2009 were ranked on a scale of 0–5 as follows: 5 = ongoing armed conflict; 4 = contained armed conflict; 3 = settled armed conflict; 2 = militant politics; 1 = conventional politics. Major armed conflicts were classified as 2 = ongoing in late 2009; 1 = emerging from conflict since 2005 or ongoing conflict with deaths under 1,000.

- *Prior genocide or politicide*: Harff, US Political Instability Task Force (formerly State Failure Task Force). 1 = one or more episodes since 1945.

- *Indicators of Group Division*: Failed States Index, Fund for Peace and the Carnegie Endowment for International Peace, 2009.
- *Democracy/Governance Indicators*: Annual Governance Indicators, World Bank, 2009.
- *OECD country risk classification*: Organisation for Economic Co-operation and Development, 'Country risk classifications of the participants to the arrangement on officially supported export credits', January 2010. Where no classification is given, a value of 8 was accorded.

Indicators were rebased as necessary to give an equal weighting to the five categories above, with the exception of the prior geno-/politicide indicator. As a dichotomous variable this received a lesser weighting to avoid too great a distortion to the final ranking. Resulting values were then summed.

The full formula is:  
 $(A/2) + (B \times 1.25) + (C \times 2) + (D + E + F)/6 + (G + H + I) / - 1 + (J \times 0.625)$

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<b>Africa</b>												
Algeria	■	■▶	■●	■	■	■	■		■	□	■	■
Angola			■●	■	■	■	■			□	■	■
Benin		■	■●	■	■	■	■		□	■	■	■
Botswana		■	■		■	■	■			■	■	■
Burkina Faso	■	■	■●	■	■	■	■		■	■	■	■
Burundi	■	■	■	■	■	■	■			■	■	■
Cameroon		■	■●	■	■	■	■		□	□	■	■
Cape Verde		■	■●	■	■	■	■		■	□	■	■
Central African Republic		■	■●	■	■	■	■			■	■	□
Chad		■	■●	■	■	■	■			■	■	■
Comoros	■	■	□	□	■	■	■		□	■	■	■
Congo		■	■●	■	■	■	■		□	■	■	■
Côte d'Ivoire	■	■	■●	■	■	■	■			□	■	■
Democratic Republic of the Congo	■	■	■	■	■	■	■			■	■	
Djibouti		□	■●	■	■	■	■			■	■	□
Egypt	■	■	■	■	■	■	■		■	□	■	■
Equatorial Guinea		■	■●	■	■	■	■				■	■
Eritrea		■	■	■	■	■	■			□	■	■
Ethiopia	■	■	■	■	■	■	■				■	■
Gabon	■	■	■	■	■	■	■		□	■	■	■
Gambia	■	■	■●	■	■	■	■			■	■	■
Ghana	■	■	■●	■	■	■	■		■	■	■	■
Guinea	■	■	■●	■	■	■	■		■	■	■	■
Guinea Bissau		□	□	■	■	■	■		□	□	■	■
Kenya		■	■	■	■	■	■			■	■	■
Lesotho	■	■	■●	■	■	■	■		■	■	■	■
Liberia	■	■	■○	■	■	■	■		□	■	■	■
Libyan Arab Jamahiriya	■	■	■●	■	■	■	■		■		■	■
Madagascar		■	■●	■	■	■	■			■	■	■
Malawi		■	■●	■	■	■	■			■	■	■
Mali	■	■	■●	■	■	■	■		■	■	■	■
Mauritania		■	■	■	■	■	■		■		■	■
Mauritius		■	■●	■	■	■	■			■	■	■
Morocco	■	■▶	■	■	■	■	■		■	□		
Mozambique	■	■	■		■	■	■			□	■	■
Namibia	■	■	■●	■	■	■	■			■	■	■
Niger		■	■●	■	■	■	■		■	■	■	■

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Nigeria	■	■	■	■	■	■	■		■	■	■	■
Rwanda	■	■	■	■	■	■	■		■		■	■
Sahrawi Arab Democratic Republic											■	□
São Tomé and Príncipe		□	□○	□	■	■	■		□	□	■	■
Senegal	■	■►	■●	■	■	■	■		■	■	■	■
Seychelles	■	■	■	■	■	■	■		■	□	■	■
Sierra Leone		■	■	■	■	■	■		□	■	■	■
Somalia		■	■	■		□	■				■	□
South Africa	■	■►	■●	□	■	■	■			■	■	■
Sudan	■	■	■	■	■	■	■			□	■	■
Swaziland		■	■	■	■	■	■				■	□
Togo	■	■	■●	■	■	■	■		□		■	■
Tunisia	■	■	■	■	■	■	■				■	□
Uganda	■	■	■●	■	■	■	■		■	■	■	■
United Republic of Tanzania	■	■	■	■	■	■	■			■	■	■
Zambia		■	■●	■	■	■	■			■	■	■
Zimbabwe	■	■	■	■	■	■	■			□	■	■
<b>Americas</b>											American Convention on Human Rights 1969	Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights 1988
Antigua and Barbuda	■	■			■	■	■			■		
Argentina	■	■►	■●	■	■	■	■	■	■	■	■	■
Bahamas	■	■	■●	■	■	■	■			□		
Barbados	■	■	■●	■	■	■	■			■	■	
Belize	■	■	■	□	■	■	■		■	■		
Bolivia	■	■►	■●	■	■	■	■	■	■	■	■	■
Brazil	■	■►	■●	■	■	■	■	■	■	■	■	■
Canada	■	■	■●	■	■	■	■			■		
Chile	■	■►	■●	■	■	■	■	■	■	■	■	□
Colombia	■	■	■●	■	■	■	■	■	■	■	■	■
Costa Rica	■	■►	■●	■	■	■	■	■	■	■	■	■
Cuba	■	■	□	□	■	■	■					
Dominica			■	■	■	■	■			■	■	

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Dominican Republic	□	■	■●	■	■	■	■			■	■	□
Ecuador	■	■▶	■●	■	■	■	■	■	■	■	■	■
El Salvador	■	■	■●	■	■	■	■		■		■	■
Grenada		□	■	■	■	■	■				■	
Guatemala	■	■	■●	■	■	■	■	■	■		■	■
Guyana		■	■●	■	■	■	■		□	■		
Haiti	■	■	■		■	■	■			□	■	□
Honduras	■	■	■●	■	■	■	■	■	■	■	■	
Jamaica	■	■	■●	■	■	■	■		■	□	■	
Mexico	■	■▶	■●	■	■	■	■	■	■	■	■	■
Nicaragua	■	■	■●	■	■	■	■		■		■	□
Panama	■	■	■●	■	■	■	■			■	■	■
Paraguay	■	■	■●	■	■	■	■	■	■	■	■	■
Peru	■	■▶	■●	■	■	■	■	■	■	■	■	■
Saint Kitts and Nevis		■			■	■	■			■		
Saint Lucia		■			■	■	■			□		
Saint Vincent and the Grenadines	■	■	■●	■	■	■	■			■		
Suriname		■	■●	■	■	■	■			■	■	■
Trinidad and Tobago	■	■	■●	■	■	■	■			■	■	
United States of America	■	■	■	□	□	□				□	□	
Uruguay	■	■▶	■●	■	■	■	■		■	■	■	■
Venezuela	■	■▶	■●	■	■	■	■	■		■	■	□
<b>Asia</b>												
Afghanistan	■	■	■	■	■	■	■			■		
Bangladesh	■	■	■	■	■	■	■		□	□		
Bhutan		□			■	■	■					
Brunei Darussalam					■	■	■					
Cambodia	■	■	■○	■	■	■	■		□	■		
China	■	■	□	■	■	■	■					
Democratic People's Republic of Korea	■		■	■	■	■	■					
India	■	■	■	■	■	■	■					
Indonesia		■	■	■	■	■	■		□			
Japan		■	■	■	■	■	■			■		
Kazakhstan	■	■▶	■●	■	■	■	■					
Kyrgyzstan	■	■	■●	■	■	■	■		■	□		
Lao People's Democratic Republic	■	■	■	■	■	■	■					

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Malaysia	■				■	■						
Maldives	■	■	■●	■	■	■						
Mongolia	■	■	■●	■	■	■	■			■		
Myanmar	■				■	■						
Nepal	■	■	■●	■	■	■	■	■				
Pakistan	■	■	□	■	■	■	■					
Philippines	■	■	■●	■	■	■	■		■	□		
Republic of Korea	■	■▶	■●	■	■	■	■			■		
Singapore	■				■	■						
Sri Lanka	■	■	■●	■	■	■	■		■			
Tajikistan		■	■●	■	■	■	■		■	■		
Thailand		■	■	■	■	■				□		
Timor Leste		■	■	■	■	■			■	■		
Turkmenistan		■	■●	■	■	■	■					
Uzbekistan	■	■	■●	■	■	■	■			□		
Viet Nam	■	■	■	■	■	■	■					
<b>Europe</b>												
Albania	■	■	■●	■	■	■	■		■	■		■
Andorra	■	■▶	■●		■	■				■		
Armenia	■	■	■●	■	■	■	■			□	■	■
Austria	■	■▶	■●	■	■	■	■			■	■	■
Azerbaijan	■	■▶	■●	■	■	■	■		■		□	■
Belarus	■	■	■●	■	■	■	■					
Belgium	■	■▶	■●	■	■	■	■			■		□
Bosnia and Herzegovina	■	■	■●	■	■	■	■		■	■	□	■
Bulgaria	■	■▶	■●	■	■	■	■			■		■
Croatia	■	■	■●	■	■	■	■			■	■	■
Cyprus	■	■▶	■●	■	■	■	■			■	■	■
Czech Republic	■	■▶	■●	■	■	■	■			■	■	■
Denmark	■	■▶	■●	■	■	■	■	■		■	■	■
Estonia	■	■	■●	■	■	■	■			■		■
Finland	■	■▶	■●	■	■	■	■			■	■	■
France	■	■▶	■●	■	■	■	■			■	□	
Georgia	■	■▶	■●	■	■	■	■			■		■

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Germany	■	■▶	■●	■	■	■	■	■		■	■	■
Greece	■	■	■●	■	■	■	■			■		□
Holy See		■				■						
Hungary	■	■▶	■●	■	■	■	■			■	■	■
Iceland	■	■▶	■●	■	■	■	■			■	□	□
Ireland	■	■▶	■●	■	■	■	■			■		■
Italy	■	■▶	■●	■	■	■	■			■	□	■
Latvia	■	■	■●	■	■	■	■			■		■
Liechtenstein	■	■▶	■	■	■	■	■			■	■	■
Lithuania	■	■	■●	■	■	■	■			■		■
Luxembourg	■	■▶	■●	■	■	■	■			■	■	□
Malta		■▶	■●	■	■	■	■			■	□	■
Monaco	■	■▶	■	■	■	■				□		
Montenegro	■	■▶	■●	■	■	■	■		□	■	■	■
Netherlands	■	■▶	■●	■	■	■	■	■		■	■	■
Norway	■	■▶	■●	■	■	■	■	■		■	■	■
Poland	■	■▶	■●	■	■	■	■			■	■	■
Portugal	■	■▶	■●	■	■	■	■			■		■
Republic of Moldova	■	■	■●	■	■	■	■			□	□	■
Romania	■	■▶	■●	■	■	■	■			■	■	■
Russian Federation	■	■▶	■●	■	■	■	■			□	□	■
San Marino		■	■●	■	■	■	■			■		■
Serbia	■	■▶	■●	■	■	■	■		□	■	■	■
Slovakia	■	■▶	■●	■	■	■	■			■	■	■
Slovenia	■	■▶	■●	■	■	■	■			■	■	■
Spain	■	■▶	■●	■	■	■	■	■		■	■	■
Sweden	■	■▶	■●	■	■	■	■			■	■	■
Switzerland	■	■▶	■	■	■	■	■			■	■	■
The former Yugoslav Republic of Macedonia	■	■▶	■●	■	■	■	■			■	□	■
Turkey	■	■	■○	■	■	■	■		■			
Ukraine	■	■▶	■●	■	■	■	■			□	■	■
United Kingdom of Great Britain and Northern Ireland	■	■	■	■	■	■	■			■	■	■
<b>Middle East</b>												
Bahrain	■	■	■	■	■	■	■			□		
Iran (Islamic Republic of)	■	■	■	■		■	■			□		

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Iraq	■	■	■	■	■	■	■							
Israel	■	■	■	■	■	■	■			□				
Jordan	■	■	■	■	■	■	■			■				
Kuwait	■	■	■	■	■	■	■			□				
Lebanon	■	■	■	■	■	■	■							
Oman		■			■	■	■			□				
Qatar		■			■	■	■							
Saudi Arabia	■	■			■	■	■							
Syrian Arab Republic	■	■	■	■	■	■	■		■	□				
United Arab Emirates	■	■			■	■	■			□				
Yemen	■	■	■	■	■	■	■			□				
<b>Oceania</b>														
Australia	■	■▶	■●	■	■	■	■			■				
Cook Islands					■	■				■				
Fiji	■	■			■	■	■	■		■				
Kiribati					■	■	■							
Marshall Islands					■	■				■				
Micronesia (Federated States of)					■	■								
Nauru		□	□			■				■				
New Zealand	■	■	■●	■	■	■	■			■				
Niue						■								
Palau						■								
Papua New Guinea	■	■	■	■	■	■	■			■				
Samoa			■		■	■	■			■				
Solomon Islands		■			■	■				□				
Tonga	■	■				■								
Tuvalu					■	■								
Vanuatu			■		■	■	■							

Compiled by Marusca Perazzi

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# Who are minorities?

Minorities of concern to MRG are disadvantaged ethnic, national, religious, linguistic or cultural groups who are smaller in number than the rest of the population and who may wish to maintain and develop their identity. MRG also works with indigenous peoples.

Other groups who may suffer discrimination are of concern to MRG, which condemns discrimination on any ground. However, the specific mission of MRG is to secure the rights of minorities and indigenous peoples around the world and to improve cooperation between communities.

# Selected abbreviations

ACHPR – African Commission on Human and Peoples' Rights  
ACtHPR – African Court on Human and Peoples' Rights  
ADRIP – American Declaration on the Rights of Indigenous Peoples  
AFROL – African News Agency  
AI – Amnesty International  
CAT – UN Committee Against Torture  
CEDAW – UN Committee on the Elimination of Discrimination Against Women  
CERD – UN Committee on the Elimination of Racial Discrimination  
CESCR – UN Committee on Economic, Social and Cultural Rights  
CoE – Council of Europe  
CRC – UN Convention on the Rights of the Child  
ECHR – European Convention for the Protection of Human Rights and Fundamental Freedoms  
ECRI – Council of Europe's European Commission against Racism and Intolerance  
ECtHR – European Court of Human Rights  
ENAR – European Network Against Racism  
EU – European Union  
FAO – UN Food and Agriculture Organization  
FCNM – Council of Europe Framework Convention for the Protection of National Minorities  
FRA – EU's Agency for Fundamental Rights  
HRC – UN Human Rights Committee  
HRW – Human Rights Watch  
IACHR – Inter-American Court of Human Rights  
ICC – International Criminal Court  
ICCPR – International Covenant of Civil and Political Rights  
ICERD – International Convention on the Elimination of Racial Discrimination  
ICESCR – International Covenant on Economic, Social and Cultural Rights  
ICG – International Crisis Group  
ICRC – International Committee of the Red Cross  
IDP – Internally Displaced People  
IEMI – UN Independent Expert on Minority Issues  
IFRCRCS – International Federation of Red Cross

and Red Crescent Societies  
IGLHRC – International Gay and Lesbian Human Rights Commission  
ILO – International Labour Organization  
IMF – International Monetary Fund  
IOM – International Organization for Migration  
IP – Indigenous Peoples  
IRIN – Integrated Regional Information Network  
IWPR – Institute for War and Peace Reporting  
LGBT – lesbian, gay, bisexual, and transgender  
MDGs – Millennium Development Goals  
MSF – Médecins Sans Frontières  
MRG – Minority Rights Group International  
NGO – non-governmental organization  
OCHA – UN Office for the Coordination of Humanitarian Affairs  
OECD – Organisation for Economic Cooperation and Development  
OHCHR – Office of the High Commissioner on Human Rights  
OSCE – Organization for Security and Co-Operation in Europe  
OSJI – Open Society Justice Initiative  
PRSPs – Poverty Reduction Strategy Papers  
RAE – Roma, Ashkalia and Egyptian minority communities  
RI – Refugees International  
UDHR – Universal Declaration of Human Rights  
UN – United Nations  
UNDRIP – UN Declaration on the Rights of Indigenous Peoples  
UN Forum – UN Forum on Minority Issues  
UNAIDS – UN Joint Programme on HIV/AIDS  
UNDM – UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities  
UNDP – UN Development Programme  
UNHCR – UN High Commissioner for Refugees  
UNICEF – UN Children's Fund  
UNIFEM – UN Development Fund for Women  
UNRWA – UN Relief and Works Agency  
USCIRF – US Commission on International Religious Freedom  
USIP – United States Institute of Peace  
WFP – World Food Programme

# Contributors

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**Felix Corley** (*Central Asia*), a graduate of Russian and German from Bristol University, has worked on religious freedom issues in Eastern Europe, the Caucasus and Central Asia since the 1980s. He is editor of Forum 18 News Service, which covers religious freedom issues, mainly in the former Soviet republics.

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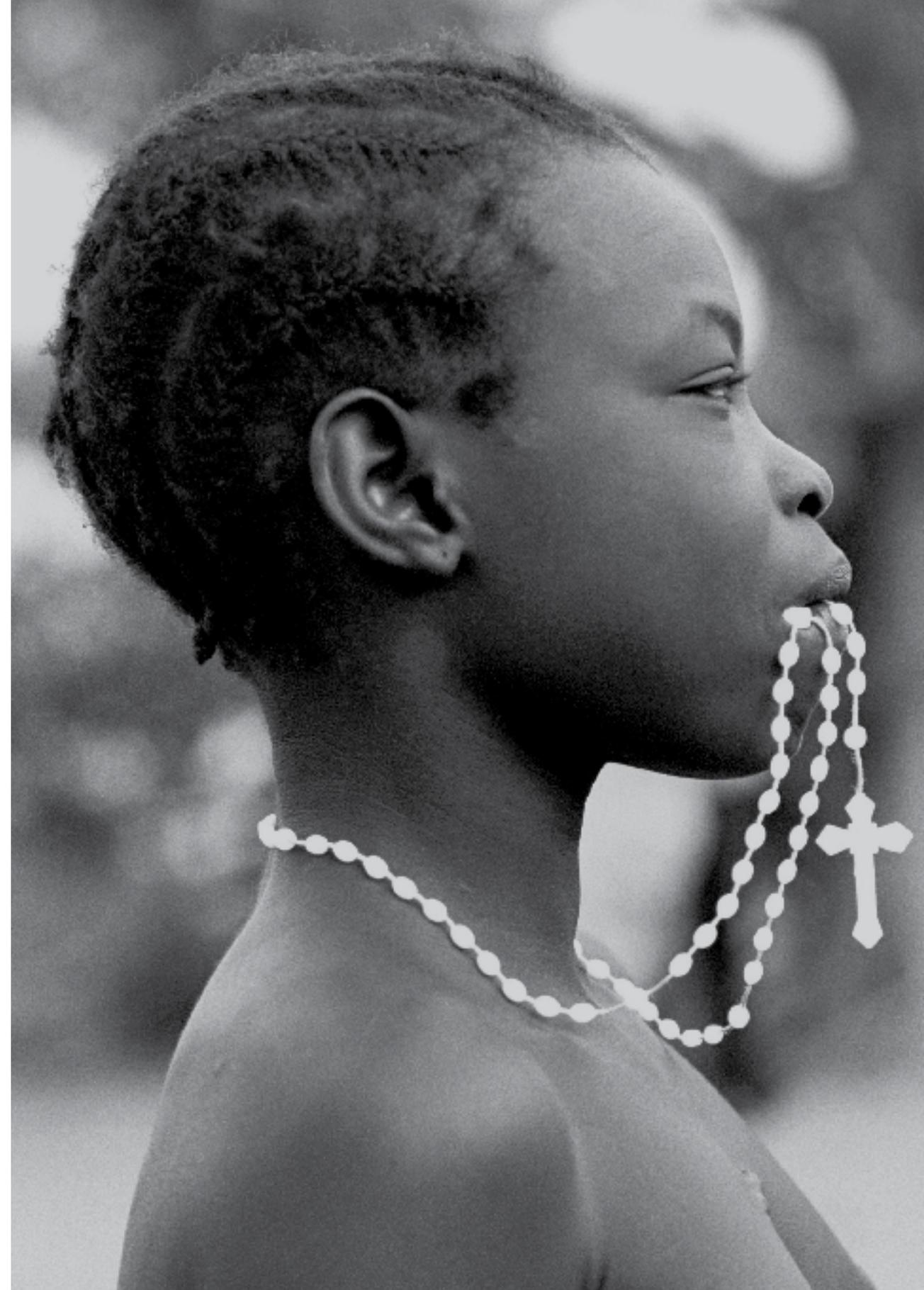
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**Right:** A Dinka girl in the village of Alek, in the Bahr el Ghazal region of Southern Sudan. *Sven Torfinn/Panos.*



# State of the World's Minorities and Indigenous Peoples 2010

## Events of 2009

minority  
rights  
group  
international

A decade into the new century sees religious minorities confronting serious violations of their rights around the globe. Following the violent attacks of 11 September 2001, governments of every political hue have used “war on terror” rhetoric to justify the repression of religious communities. Other religious minorities have faced a violent backlash, often unjustly accused of siding with belligerents. In Africa, the Middle East, Asia and Latin America, armed conflict and land seizures have forced minority and indigenous communities away from locations central to their religious beliefs. Europe has witnessed gains by extreme right-wing political parties which are targeting religious minorities with their inflammatory language. In Central Asia, governments have introduced tough new registration requirements for religious communities and prevented the building of places of worship.

In *State of the World's Minorities and Indigenous Peoples 2010*, Minority Rights Group International offers a comprehensive overview of the situation faced by minorities in a world increasingly divided along religious lines. It includes:

- An analysis of government initiatives that contribute to the marginalisation of religious minorities, such as religious profiling and registration laws.
- First-hand accounts, from around the world, of the discrimination and exclusion faced by those belonging to minorities who wish to exercise their right to freedom of religion and belief.
- An exploration of grassroots efforts through interfaith dialogue to ease tensions, overcome conflicts, and promote peaceful and equitable development.
- An overview of the human rights situation of minorities and indigenous peoples in every major world region.
- The unique statistical ranking and analysis, Peoples under Threat 2010.

*State of the World's Minorities and Indigenous Peoples* is an invaluable reference for policy makers, academics, journalists and everyone who is interested in the human rights situation of minorities and indigenous peoples around the world.

Cover photo: A Uighur woman in Xinjiang Province, China. *Yann Mingard/Panos.*

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