D uring 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, Mandaeans-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 these 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 these 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 Mandaeans 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 Mandaeans 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, Pashmuns 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.

Religious minorities in a post-9/11 world

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

State of the World’s Minorities and Indigenous Peoples 2010

Religious minorities in a post-9/11 world

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Over 2 million people, mostly ethnic Pashtuns, fled the area due to the violence. Religious minorities, 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 populated 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 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 Uyghur separatists who orchestrated the July 5 riots in Urumqi, capital of the Xinjiang Uyghur autonomous region, have close relations with the Afghanistan-based Al-Qaida.’ Counter-terrorism laws were introduced by the government later that year. These laws heavily and negatively affected the Uighurs and other Muslim minorities as ethnic minorities in the country. 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.

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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 before 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 (ECHR), 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 confound an alleged propensity 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 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.

Steps and searches conducted under counter-terrorism laws in Europe have often relied on religious profiling. In some cases, the authorities were unable to register a particular place of worship. In some 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. Religious associations 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. Religious registration laws can also have an impact at the local level and can empower local officials to discriminate against particular religious or ethnic groups making it more difficult for them to register. In Mongolia, for example, some states have made it more difficult, or even impossible, for religious communities that are non-monothestic 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 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 the post-9/11 world, it is useful 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.

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Religious minorities and the cartoon controversy
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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 ‘rub’’. 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 republished the 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.

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.

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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 by 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 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 6 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.