

Religious minorities in a post-9/11 world

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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. ■