

Middle East

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The Middle East is the region of the world with arguably the richest history of ethnic and religious diversity, but its minority situation is far from exemplary. These difficulties surrounding minorities are best understood within the broader context of human rights, governance and democracy. Nevertheless, the challenges faced by minorities in the region are above and beyond the restrictions faced by the general population and additional to them.

Impact of international affairs

Trends post-11 September 2001 have had a dual impact on the status of the Middle East's minorities. On the one hand, developments over the past four years have brought about much greater international attention on the human rights situation in the Middle East. On the other, with it has come overt international – and particularly US – pressure on democratization and human rights in the region. This carries with it the risk that minorities will be accused of being 'internationally sponsored' and suspect – thus becoming even more vulnerable to discrimination. The project of enhancing the rights of the region's minorities has therefore become both more risky and more promising.

This problem is very complex and there is a danger that minorities will, at least in the short term, become both endangered and sidelined – endangered, because the wars in both Afghanistan and Iraq were at least partially justified in terms of their rights; sidelined because, in the search for wider political support, their rights may actually prove too costly and be set aside by Western powers. The whole question of minorities in the Middle East is therefore enmeshed in great risk, and there does not seem to be any prospect of improvement in how they are perceived or how they are treated in the immediate future. There is the unfortunate danger that the increased radicalization, splintering of communities and conflict seen in the region in recent years may come to be unleashed against minorities of the region.

Although it is not a principal focus in this report, in the context of conflict in the Middle East the long-standing Arab–Israeli issue cannot go unmentioned. While it is difficult to chart clearly the regional tensions that draw upon and contribute to this conflict, it seems clear that it does not have a positive impact on minorities in the region. Anger,

frustration, hatred, radicalization and violence in the region are often couched in terms of the overwhelming political impact of this conflict.

Regional institutions, treaties and landmark cases

There are no regional institutions, treaties and cases that effectively uphold minority rights in the Middle East region, and none are on the horizon. The three human rights instruments that will be discussed are the 1990 Cairo Declaration, the 2004 Arab Charter and the 2004 Sana'a Declaration on Democracy, Human Rights and the Role of the International Criminal Court.

The 1990 Cairo Declaration on Human Rights in Islam, adopted by the Organization of the Islamic Conference, does not uphold minority rights. The subjects indicated in the articles are 'human beings', 'everyone', 'every man' and 'each person'. No mention is made of minorities throughout. There are just some broad provisions on freedom of expression and participation in public affairs. The provisions of Articles 24 and 25 that the Declaration is subject to the Islamic Shari'a may further impact negatively on non-Muslim minorities.

The League of Arab States decided in 2003 to redraft the 1994 Arab Charter on Human Rights in order to bring it into line with international standards. The new Charter was adopted in 2004. The preamble to the Charter recognizes the region as the birthplace of many religions and civilizations, and expresses commitment to freedom and justice. Article 1 states that it seeks to place human rights at the centre of national concerns and to inculcate and entrench the universality and indivisibility of all human rights.

Most of the Charter refers to individual rights – with 'each human being', 'all persons' or 'every citizen' being assigned rights. Minorities find mention in Article 25, and there is reference to the right of peoples to self-determination following international formulations. Article 2 states that all peoples have the right to self-determination, and this is defined as including the right of peoples to freely choose their political system and pursue their 'economic, social and cultural development'. It is not explicit whether minorities could constitute 'peoples', but most experts interpret similar references in international instruments to exclude

minorities. Article 25 states: 'Persons belonging to minorities shall not be denied the right to enjoy their own culture, to use their own language and to practise their own religion. The exercise of these rights shall be governed by law.' Since 'law' is not defined, it offers a worrying loophole. Is it national or religious law, and in accordance with what standards? Clearly law can 'govern' the *denial* of the exercise of all of these rights to minorities. It is not clear how promising for minorities any future case law from the Charter could be, considering the numerous grounds for limitation provided by reference to 'law'.

The League of Arab States' 2004 Sana'a Declaration on Democracy, Human Rights and the Role of the International Criminal Court was adopted by an intergovernmental regional conference of 52 Arab, African and Asian countries in January 2004. The delegates recognized the principle that 'Cultural and religious diversity is at the core of universally recognized human rights', and that this diversity should not lead to confrontation but to dialogue and understanding. Principle (c) notes that democratic systems 'protect the rights and interests of everybody without discrimination, especially the rights and interests of disadvantaged and vulnerable groups' – presumably implying minorities as well. The participants' agreement to protect fundamental rights of adherence to 'religious beliefs and ethnic identity' is framed as applying to individuals rather than minority groups. Reference to ethnic identity, however, is welcome, as many instruments from this region are reluctant to refer to or recognize ethnic diversity for fear that this would weaken national unity.

One international case that has connotations for minorities in the region is that of the International Court of Justice (ICJ) July 2004 Advisory Opinion on the Israeli security barrier. In this landmark case, the ICJ focused on the construction of the wall on occupied territory as a breach of the right to self-determination of the Palestinian people as well as the question of the socio-economic impact of the wall on the freedom of movement of Palestinians. The Court was 'not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives' and found that the construction of the wall violated both international humanitarian law and human rights law. The Israeli

Supreme Court had itself previously ruled on the route of the security barrier because of the human rights impact on Palestinians, particularly the impact on livelihoods and freedom of movement.

Another ongoing case is that of the trial of Saddam Hussein before the Iraqi Special Tribunal. Among the charges against him are a number that directly relate to minorities: the 1982 massacre of Shias in Dujail after a failed assassination attempt against him, the 1988 poison gas attack killing thousands of Kurds in Halabja and the suppression of Shia revolts in 1991 and 1999.

Diversity of minority groups

The minority groups that will be considered are as follows:

1. National, ethnic, religious or linguistic minorities: the primary focus will be on settled communities. The religious minorities will be non-Muslims in the whole region except for Israel where it will be non-Jews.
2. Those excluded from full citizenship rights (other than those considered elsewhere).
3. Various groups not categorized as citizens according to national law: stateless persons, refugees, migrant workers and trafficked persons. Whereas the general focus of this publication is on settled communities, new migrant communities constitute such a large proportion of the population in so many Middle Eastern states that they cannot be neglected. Moreover their situation is deeply intertwined with ethnic and racial discrimination in general.

National, ethnic, religious or linguistic minorities

These minorities often suffer from the chauvinism of culture. This includes pan-Arabism as an ideology or Arabization as a policy and Persian chauvinism in Iran. It affects non-Muslims in Islamic countries and is implicated in the disadvantages faced by non-Jews in Israel. This cultural chauvinism is manifested in discriminatory policies and practices against minorities particularly in the realms of politics and law.

Power

Many of the countries of the region stipulate a particular religious and ethnic affiliation for the head of state. The presidents of Iran and Syria, for

example, are required by their respective Constitutions to be Muslim. Few, if any, senior posts are occupied by minorities, unless there is provision for specific representatives in parliament. A number of individuals from minority backgrounds have held positions of power in some of the Middle Eastern states, but there seems little trace of the impact of such power in terms of wider government policy as a whole.

Language

Linguistic policies are generally highly restrictive, with minority languages suffering either from government-sanctioned restrictions or de facto disadvantage in official circles, education and publication. For example, the Constitution of the Arab Republic of Egypt announces Arabic as the official language of the state in Part 1 Article 2. Syria, however, allows the teaching of languages other than the official Arabic language. The teaching of Armenian, Syriac, Chaldean and Hebrew are permitted in Syrian public schools. Arabic is the second official language in Israel.

Hate speech

While many of the constitutions assert non-discrimination on the basis of ethnicity, language or other factors, little exists by way of policies to implement this effectively. Few countries have laws to outlaw hate speech, or do so only in the case of offence to Islam. Anti-Semitic speech in sermons, editorials, political commentary and educational materials is rife in the Arab states and Iran. In some countries, such as Syria, government officials themselves have used the media to promote anti-Semitism. Sizable Jewish populations in countries such as Yemen and Iraq have all but disappeared due to the forced migration of many Jews from Arab countries after the Arab-Israeli war of 1948, and also because of subsequent voluntary migration to Israel as a result of discrimination.

Ethnic minorities

Ethnic minorities in Muslim countries face something of a dilemma. All Muslim states assert the fact that Islam recognizes the equality of all races and peoples. Within the Muslim Ummah, therefore, race is irrelevant. However, this equality in terms of religious law masks the ongoing social and political reality of discrimination against ethnic

minorities – which the legal systems refuse to engage with. The Constitution of Afghanistan and the draft constitution of Iraq are recent exceptions in this regard, and have addressed this issue directly, but so far with questionable success. The trend in the region remains that of maintaining great social, economic and political advantages in the hands of a particular ethnic, national and/or religious group – either a majority group as in the case of Iran, or of a minority group as in the case of Syria and Bahrain. Among the most serious clashes in this region on the basis of ethnicity during 2004 and the first half of 2005 are those that have occurred in Syria and Iran.

Syria

Thousands of Kurds in Syria are considered stateless due to a 1960s government scheme which reclassified them and their descendants as non-citizens. According to the UNHCR this population of stateless Kurds now amounts to around 200,000. As stateless persons they are unable to obtain official documents – birth certificates, identity cards or passports – hence they cannot travel abroad, work for the government or benefit fully from health and educational facilities. Despite a May 2004 statement by the president that the government is committed to deal with the Kurdish citizenship issue, little progress has been made. More generally, the use of Kurdish language and expression is restricted and in June 2004 the government banned political activities by Kurdish parties. Clashes between Arab and Kurdish fans after a football match in March 2004 led to Syrian security forces in Qamishli opening fire on crowds for two days running. Anti-government riots spread to other cities and led to the killing of 38 people and detention of over 1,000 by the security forces. Most were released after a few months, but around 300 were only released in April 2005 through a presidential amnesty. On 8 April 2004, a 26-year-old Kurd was reportedly tortured to death in prison in Afreen. His family was denied a funeral and forced to bury him secretly in the presence of security forces. In May 2005, Sheikh Mohammed Mashouq al-Khaznawi, a cleric who had been outspoken about the discrimination against the Kurds, disappeared. The authorities announced to his family that his body had been found in June 2005. He had been tortured. His funeral in Qamishli was followed by a

demonstration by some 10,000 Kurds. It turned violent when protesters were beaten and Kurdish shops raided. Clashes have also occurred with Syria's Assyrian population, which is estimated at around 500,000. On 30 October 2004, two Assyrians were killed in the province of Hassakeh by a military officer who had threatened them and demanded money. Demonstrations from hundreds of members of the Assyrian community followed and led to the arrest of 16 Assyrians. The officer concerned was not charged, and the detained were only released in April 2005.

Iran

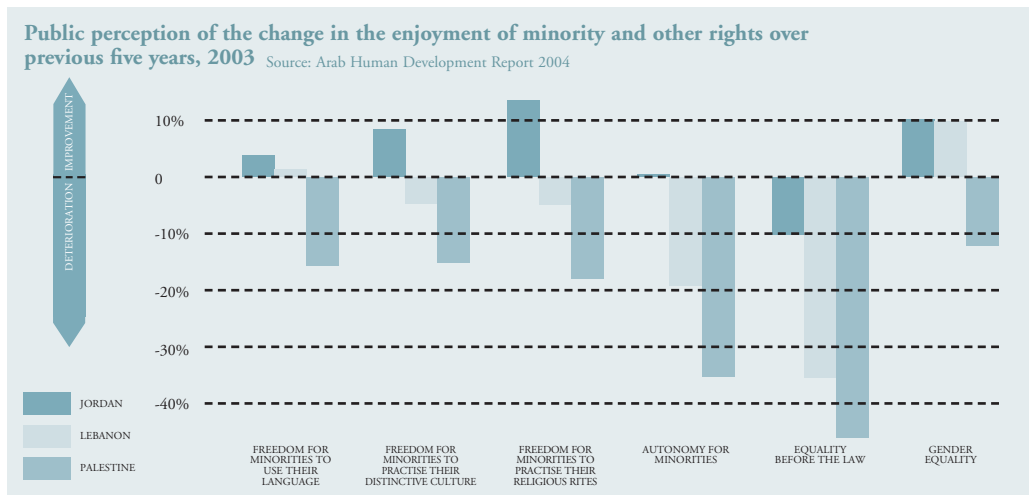
Article 19 of the Iranian Constitution states: 'All people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; colour, race, language and the like, do not bestow any privilege.' The Islamic Republic of Iran's July 2002 report to the Committee on the Rights of the Child suggested that the lower socio-economic status of ethnic minorities reflected the fact that they happened to reside in poorer border regions. However, discrimination on the basis of religion and ethnicity is rife, with minority languages being repressed and varying degrees of economic and other disadvantage being suffered by minorities.

June 2004 had witnessed the arrest of over 100 Azeris by Iranian security forces on the charge of 'spreading secessionist propaganda'. Azeris are the least repressed of Iran's ethnic minorities, as they constitute a quarter of the national population and have long enjoyed close relations with the centre of

power. However, even they suffer linguistic and cultural discrimination due to continued governmental concern with Azeri nationalism.

Kurds face greater repression and clashes have occurred between Kurds and Iranian government forces. Some Kurdish expression has been tolerated in recent years in terms of publications and broadcasting, but not in education. In 2003 there were killings of Kurdish political activists, party members and civilians. July–August 2005 witnessed the killing of around 20 Kurds and the injury of hundreds by Iranian security forces, while a number were detained. Security forces shot at protesters who were demonstrating against the killing of a young Kurdish man, Sayed Kamal Astam, known as Shivan Qaderi, in Mahabad on 9 July 2005. He had organized protests against the Iranian government during the June presidential elections. Qaderi's body was dragged through the town of Oromieh from the back of a jeep. Two Kurdish newspapers were also closed down, and activists and journalists were arrested. Ironically enough, on 6 July 2005 Kurdish and Sunni MPs had written to the Iranian President-elect, Mahmoud Ahmadinezhad, demanding that the rights of Kurds and Sunnis be protected as upheld in the Constitution.

Arabs constitute up to 4 million of the population of Iran and those residing in Khuzistan are known as 'Ahwazi Arabs'. They suffer great economic hardship as well as the repression of their language and their Sunni beliefs and practice. The year 2003 had seen the closing of two newspapers in Khuzistan and the detention of many activists. In



April 2004, Sunni MPs wrote to the Iranian Supreme Leader, Ayatollah Khamenei, deploring the absence of Sunnis in high posts and complaining of anti-Sunni propaganda. In April 2005, demonstrations in a number of cities and towns in Khuzistan led to the killing of up to seven police and officials, after Iranian security forces attempted to break up massive anti-regime demonstrations. Over 30 people were killed and hundreds more injured or detained. The demonstrations had been sparked by the leaking of contents of a disputed governmental document which allegedly planned for the reduction of the Arab dominance of the Khuzistan region through bringing in settlers of Persian and Azeri ethnicity and forcibly moving Arabs away.

Iraq and Afghanistan

Ethnic tensions have also continued in Iraq and Afghanistan. While Iraq's Arabs and Kurds – Sunni and Shia – receive frequent mention, it also has Turkmen, Chaldo-Assyrians, Armenians, Shabak, Jews, Yazidis and Bahá'ís. The population is estimated to be over 60 per cent Shia, 35 per cent Sunni and 3 per cent other believers. The number of Jews in Iraq has dramatically reduced and one-third of the population of Christians is estimated by the State Department to have left the country since the mid to late 1980s. Attacks were carried out on Christians, with numerous bombings of churches and economic threats against them by the Sunnis. The reasons for these departures stem from fear and vulnerability politically as well as in socio-economic terms. Violence between the Shias and Sunnis in Iraq intensified over 2004–5, though much of it was believed to be carried out by insurgents from abroad. The reasons for this increased violence are numerous. To some extent it is a direct consequence of the removal of Saddam Hussein's decades-long strong grip on the country. However, the invasion of Iraq has also provided the pretext for numerous groups, sponsored by a range of powers, to vent their frustrations on the forces in Iraq, on Iraqi security personnel and also on large numbers of Iraqi civilians.

In Afghanistan, Shia Hazaras were historically the most repressed ethnic minority group, and their situation has seen little improvement. Whilst President Karzai has appointed six Hazaras to his cabinet, this has not filtered down to decrease

discrimination being suffered at the grassroots by the approximately 19 per cent Hazara population of Afghanistan.

Israel/Occupied Territories/Palestinian Authority

Of Israel's population of some 6.8 million, around 5.2 million are Jews and 1.2 million or roughly 20 per cent are Arabs.

In Israel, the 2003 Orr Commission of Inquiry report found neglect and discrimination by the Israeli government with regard to its Arab population; a population which includes Muslim Arabs, Christian Arabs and Druze. The government responded by setting up a ministerial committee to implement the Orr Commission's recommendations and adopted that body's proposals in June 2004. Unemployment is higher among the Arab population (around 14 per cent for Arab males but 9 per cent among Jewish males). Jews do significantly better in education than Arabs, spending an average of three years more in school; and the government itself has acknowledged that investment per Arab pupil is roughly 60 per cent of that for Jewish students. In August 2004, Human Rights Watch reported that the Israeli Ministry of Education provided one full-time teacher for every 16.0 children in Jewish primary schools in 2003–4, but only one for every 19.7 children in Arab primary schools. There are currently 11 Arabs (all men) serving in the 120 member parliament, or Knesset, in this the sixteenth Knesset. The first Arab to hold a permanent appointment as a Supreme Court Justice in Israel was appointed in March 2004.

Increasingly, Arabs in Israel identify themselves as 'Israeli Palestinians'. However, Israel makes a sharp distinction between the 'Arab citizens' of Israel and 'Palestinians'; of the latter the largest number reside in the West Bank and Gaza Strip in very harsh conditions with large-scale unemployment. Their population amounts to over 3 million. This distinction is reflected in different laws. For example, according to the US State Department 2004 country report, a distinction is made between Palestinians and citizens (including Arab citizens) in Israeli prisons. Citizens aged 18 and over are treated as adults, but among Palestinians those aged 16 and over are treated as adults. It also reported that almost 500 Palestinian minors, aged 13 and upwards, were held in Israeli prisons. Palestinians



cannot apply for refugee status under Israeli refugee law, as they are considered to be under the protection of UNRWA (the UN Relief and Works Agency for Palestine Refugees).

Other countries

In the rest of the region, episodes involving discrimination against minorities on the basis of ethnicity have been of a much more long-standing nature. In Yemen, notable socio-economic discrimination against the Akhdam ethnic minority community – who constitute up to 5 per cent of the population and are said to descend from African slaves – continued, as did tribal violence. Discrimination was also suffered by citizens of African origin in Oman. In Jordan it was rural Bedouins who continued to suffer economic disadvantage.

Minority Muslim communities in Muslim countries

Since all Muslims are attached to the belief of the unitary Muslim religion, the situation of minority Muslim groups in a Muslim state proves quite problematic. Ongoing social and political discrimination and remoteness from power for Shias or Sunnis, for example, is neglected under the assertion of the principle of equality. The stark exception to this is the Lebanese Constitution's system of individual and political confessionalism, which remains in place from when it was a Mandate under the League of Nations. The November 2003 report of Lebanon to the Committee on the

Elimination of Racial Discrimination explained that the practice of confessionalism with regard to personal status means that all laws of personal status are 'drawn up by the various communities under the authority of the State' and, for example, there is no possibility of civil marriage. Political confessionalism implies the distribution of political and administrative posts among the various communities. The state recognized the disadvantage of this system, that it 'does not provide for persons who do not wish to disclose their descent, ethnic origin or religious faith in order to participate in public life or to found a family'. In accordance with the October 1989 Taif Agreement, there is now a commitment to a step-by-step elimination of political confessionalism, though the report acknowledged resistance to this because of the fear that its abolition will destabilize national security. The Committee, in its April 2004 Concluding Observations however, encouraged the gradual elimination of this system as it hindered full realization of some provisions of the Convention on the Elimination of Racial Discrimination.

The most notable recent instances bringing the issue of Muslim minorities in Muslim majority states to the surface are clashes between the Shia and Sunni in Bahrain. The ethnic clashes in Iran's province of Khuzistan described above, however, could also be explained in terms of religious discrimination.

Two-thirds of the indigenous Bahraini population are Shia but they are discriminated against by the Sunnis who enjoy political and economic power.

Left: Shia women on the Ashura pilgrimage from Najaf to Kerbala, Iraq. Farah Nosh/Panos Pictures

Shias are disadvantaged in terms of employment prospects, particularly in sensitive or high governmental posts and university employment, health, social security, housing and education. Attention was drawn to this discrimination in the April 2005 Concluding Observations of the UN Human Rights Committee. The US State Department report of 2004 found that electoral districts in Bahrain were drawn in order to maximize the chances of Sunni candidates being elected. On the positive side, however, it also reported that the Bahraini Interior Ministry established a community police programme in September 2004 in order to train 500 Shia men and women to patrol Shia neighbourhoods.

Furthermore, the Shias in Bahrain have access to a Jaafari Shia court, funded by the state, which has jurisdiction over personal status cases. In March 2004, around 150 Shia youth attacked a Manama restaurant and set fire to it and a number of cars. Police arrested 12 and questioned four, but all 16 were pardoned by the Emir. In April 2004, a Shia mosque was badly vandalized in Bahrain.

Discrimination against the Shias continued in the United Arab Emirates (UAE). The Shias maintain their own mosques and run their own court system for family cases. However, their sermons are closely monitored by the government and no Shias serve in top government posts. In Oman, Shias serve in prominent government posts and other sectors. The situation for the Shias in Saudi Arabia is much worse and institutionalized discrimination continues. According to the US State Department report of 2004 only two Shia judges were in practice and had to serve the large Shia community of the Eastern Province of Saudi Arabia. Shias are regularly arrested, detained and abused by the security forces; Shia books are banned, the testimony of Shias is given less weight in courts, and in 2005 only two of the 120 members of the Saudi Majlis al-Shura were Shia. There have also been a number of episodes of Shia–Sunni clashes in Saudi Arabia's Eastern Province, the most recent being in 2000. However, there have been some moves to try to reduce tensions since King Abdullah effectively took control a few years ago, and particularly since he came to power in August 2005. Saudi Arabia's Shias responded to his call for national dialogue between the two communities, and petitioned him directly with their requests in September 2005. These

include the release of political prisoners and more political representation for the Shia. The International Crisis Group warned in its September 2005 report that while a return to outright conflict between Saudi Arabia's Shias and Sunnis was unlikely, tensions were higher than at any time since 1979 and there were no grounds for complacency.

In Shia-dominated Iran, however, Sunnis suffer discrimination, usually on the multiple grounds of both ethnicity and religion. Despite around 10 per cent of the population being Sunnis, there is no Sunni mosque in Tehran.

Other religious minorities

Despite a number of Middle Eastern countries having high proportions of religious minorities – particularly if one also factors in the religious affiliation of foreign workers – there is scant protection of their individual religious freedom, let alone their freedom to practise in association with others and to manifest their religion. Judaism or Islam are overwhelmingly dominant in Israel and the Arab countries of the region respectively. Most of the countries define a state religion, and religion is heavily intertwined with national identity and culture. As well as government-sanctioned restrictions or persecution in the political and legal spheres, there is the additional burden of societal discrimination. Since personal status laws are handled by religious authorities in most of these countries, non-recognition of a particular religion or belief community bears heavily on the excluded religions. It bears even more heavily on minority women, leading to multiple discrimination against them. Marriage, divorce, burial, inheritance, even education and travel may be at stake. In the case of Lebanon's confessional system, public life and the political system itself is predicated on assignment to affiliation of only the recognized religious groups. This compares with Yemen and a number of other states where non-Muslims are forbidden from holding elected posts.

There is a clear hierarchy between non-Muslim *Dhimmi* and other religious minorities. *Dhimmi* status stems from the Islamic concept of protected status for non-Muslim 'People of the Book': Christians and Jews. Over time this enhanced category of protection has been extended in some Muslim countries to Zoroastrians, Hindus and Sikhs. This differentiated categorization of

protection still leaves its traces in legal, political and societal tolerance of minorities in Muslim countries today. The practice of non-religious beliefs, particularly atheism or polytheism, is not recognized in most of the legal systems and is not tolerated or understood by Middle Eastern society in general – with Israel being an exception in this regard.

At best, there seems to be de facto tolerance of some religious freedoms in a manner that is partial, tokenistic and both controlled and limited by government. However, the law in most of the states does not allow, for example, the public teaching of religion by religious minorities, proselytizing, the conversion of Muslims to other religions or beliefs (though the reverse is acceptable), the equality of Muslim and non-Muslim before the law, the marriage of a Muslim woman to a non-Muslim man, personal status laws being respected for *all* non-Muslim groups and equal treatment in criminal procedures. One case of intolerance of conversion from Islam comes from Jordan where, on 13 September 2004, a Muslim convert to Christianity was arrested on apostasy charges. The Sharia court found him guilty on 23 November 2004, and he and his family had to leave Jordan. In the UAE, Yemen and other countries, proselytizing among Muslims and the conversion of Muslims to other religions is prohibited. This is also the case in the UAE even though the 2001 census showed the population as being 24 per cent non-Muslim (albeit that most of these are migrant workers). The UN Human Rights Committee, in concluding on Yemen's February 2004 report, found the prohibition on the conversion of Muslims 'in the name of social stability and security' to be in violation of the Convention. In the case of Israel, conversion to Judaism by non-Orthodox Rabbis is not recognized, leading to denial of personal status processes such as marriage, burial and so on. Jews cannot have civil marriages and cannot marry anyone from another faith in Israel. This is because all legal matters are monopolized by Orthodox Judaism. The Israeli Central Bureau of Statistics reported in 2005 that in 2002 over 8 per cent of all Israelis who had married had done so abroad.

Examples of the government-orchestrated representation of religious minorities include Bahrain, where the Emir has appointed a Christian and a Jew to the Shura Council. A further 21 are Shia and 17 Sunni. In Syria, all religions must

register with the government and are then monitored by officials. Although religion is officially separate from citizenship, Jews have the unfortunate distinction of being the only citizens whose religion is required to be noted on their passports and identity cards, and they face more hurdles in travel and other official procedures. Most of these countries have allowed some places of worship of other religions to exist – for example Kuwait and Qatar – though many are then monitored by the government and not *all* religions are granted this freedom. In some countries, such as Kuwait, the law specifies that non-Muslims cannot become citizens. In Saudi Arabia and Iran, the situation of religious minorities is problematized further by the operation of morality or religious 'police'. In Saudi Arabia the Mutawwa'in use their own religious interpretations to decide who is committing 'crimes of vice', and can abuse, arrest and detain people before handing them over to the police.

Iran

In 2004 and 2005, religious persecution on the largest scale occurred in Iran and Egypt. According to the Iranian Constitution, the Twelver Ja'fari school of Islam is the official religion. However, Article 13 adds that 'Zoroastrian, Jewish, and Christian Iranians are the 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.' Article 14 establishes a duty to treat non-Muslims according to Islamic justice and human rights, as long as they 'refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran'. The intentional exclusion of Iran's some 300,000 Bahá'is cannot go unnoticed. For much of the period since 1979, Bahá'is have been excluded from university education, severely restricted in employment opportunities, thousands of individual and community properties remain confiscated, they suffer from the absence of legal equality, pensions remain unpaid and the functioning of the religious community remains prohibited. Their intimidation and persecution is overtly government-sanctioned and they remain excluded from all spheres of public life in an attempt to force them to convert to Islam. The situation of the Bahá'is in Iran has sharply deteriorated recently, with 16 being imprisoned by

government officials in three different localities in the months of July and August 2005 alone, purely on account of their beliefs. As of August 2005, 36 Bahá'ís were awaiting trial on charges stemming from their religious beliefs. The most recent governmental attempt to tempt their youth to convert comes from summer 2004. In July 2004, for the first time since 1979, Bahá'ís were allowed to participate in university entrance examinations, as there was no longer the requirement to state one's religious affiliation in the application form. Successful examination results were subsequently communicated to around 1,000 Bahá'í applicants on pre-printed forms that assigned the religious affiliation 'Muslim' to them. When they tried to take up the university entrance offers while also getting their forms corrected to 'Bahá'í' for religious affiliation, this possibility was refused them. Hence university entrance had once again been predicated on Bahá'ís accepting forcible conversion to Islam. The Islamic Republic of Iran's July 2002 report to the Committee on the Rights of the Child had claimed that the rights of ethnic and religious minorities were clearly protected. The Committee's March 2005 Concluding Observations did not accept Iran's claim of non-discrimination. It noted 'little progress' as 'members of unrecognized religions continue to be discriminated against and do not have the same rights as those of recognized religions', thus impacting on their access to social services, education for their children and even ill-treatment and imprisonment. It particularly noted that the Bahá'ís were subjected to 'harassment, intimidation and imprisonment on account of their religious beliefs' and denial of university admittance due to their religious beliefs.

In September 2004, 85 participants in a Christian conference were imprisoned, along with a lay preacher of the Assemblies of God Church, Reverend Hamid Pourmand. The 85 were released in a matter of days, but Pourmand was charged. As he was an officer in the Iranian army, and non-Muslims are prohibited such a position of superiority over Muslims, he was charged with having converted to Christianity without informing officials of his conversion. He was also charged with attempting to convert Muslims to Christianity. In May 2005, he was acquitted of the charges of apostasy and proselytism, for each of which he could have faced the death penalty. The charge of deceiving the

Iranian army about his being a Christian remains, and for this he has been dismissed from the army and faces three years' imprisonment.

Egypt

The Constitution of the Arab Republic of Egypt definitively upholds Islam as the state religion and Islamic jurisprudence as 'the principal source of legislation'. Nevertheless, Article 46 further asserts the guarantee of 'freedom of belief and the freedom of practice of religious rites'. The US State Department report for 2004 noted that many Christians worship without harassment, however the 10 per cent Christian population of Egypt did face some discrimination. Muslims who convert to Christianity cannot change their religious affiliation on official records, while conversions to Islam are happily registered. Repairs to places of worship need the approval of security officials and Christians reported delays with such applications. Christians were excluded from most senior posts. According to the 2004 US State Department report:

'There were no Christians serving as governors, police commissioners, city mayors, public university presidents, or deans. There were few Christians in the upper ranks of the security services and armed forces.

Discrimination against Christians also continued in public sector employment; in staff appointments to public universities; in failure (with the exception of one case in 2002) to admit Christians into public university training programs for Arabic language teachers that involved study of the Koran; and in payment of Muslim imams through public funds (Christian clergy are paid with private church funds).'

Christians also did not enjoy equality before the law in practice, as shown in the case of the killing of 21 Christians in al-Kush in early 2000. After years of pursuing the legal process, all the suspects were acquitted in June 2004.

Bahá'ís in Egypt face discrimination in every aspect of life simply because the government forbids them from stating their religious affiliation on their identity cards. The 1960 Law 263, which bans Bahá'í institutions and activities, also remains in force. The new computerized national identity card system in Egypt requires every person to declare themselves as either Muslim, Christian or Jew; otherwise a card will not be issued. The slot cannot

be left empty or filled in with 'other'. These cards are necessary in all official interactions: health services, school registration, university attendance, banking, applying for employment, even shopping in state markets. According to the NGO the Bahá'í International Community cards are even necessary for freedom of movement as they must be shown at police checkpoints. The August 2005 Bahá'í International Community statement at the UN Sub-Commission on Promotion and Protection of Human Rights stated that 'Without an ID card, an Egyptian citizen becomes a non-person, unable to live a normal life.' Therefore Bahá'í youth have, for example, been forced out of universities and fear leaving their homes. Hate speech against the Bahá'ís in the Egyptian media is reportedly on the rise, as is the number of fatwas being issued against them.

Excluded from full citizenship rights

Such groups are victims of the repressive and paranoid modern nation-state projects of the region. In some countries significant populations are not recognized as citizens either because of intentional exclusion by the state or lack of documentary evidence about their status. (Migrant workers and temporary residents will be discussed below.) In a few of the countries there have been some recent positive developments, allowing a process for the possible naturalization of some of the excluded.

Regarding its Kurdish population, Syria's October 2004 report to the Human Rights Committee seemed to make a non-falsifiable statement, that 'all citizens of Kurdish origin enjoy Syrian nationality ... Kurds are considered to be fully assimilated into Syrian society where they act and react along with other Syrian citizens.' The next paragraph seemed to try to pre-empt counterclaims: 'Directives have been issued recently to resolve the situation of those who do not carry Syrian nationality.' The July 2005 Concluding Observations of the Human Rights Committee disputed this, noting that the rights enshrined in the International Covenant on Economic, Social and Cultural Rights were 'not fully guaranteed' to the Kurds. The Human Rights Committee expressed particular concern regarding the large number of stateless Kurds being treated as unregistered persons or aliens. The Committee asked that the rights of non-citizen Kurds be protected and nationality to be extended to those born in Syria.

The exclusion of 'Bidoons' (literally meaning 'without', i.e. without citizenship) from the enjoyment of economic, social and cultural rights, and discrimination against them (particularly the denial of Kuwaiti nationality to them), was highlighted in the Committee on Economic, Social and Cultural Rights June 2004 Concluding Observations on Kuwait report. Around 100,000 Bidoons (i.e. around 5 per cent of the population) face such discrimination because they have been unable to produce sufficient documentation. According to the US State Department report for 2004, the Kuwaiti government has actively discriminated against them since the mid-1980s in education, health care, employment and freedom of movement. However, in 2004, free education for the children of Bidoons was finally put in place and free health care announced for implementation in 2005. Bidoons registered by 2000 could go through the process of applying for citizenship. In October 2004, the Saudi government amended its naturalization laws so that some long-term residents could apply for citizenship. This was particularly pertinent to thousands of Saudi Bidoons, whose status was difficult due to their original nomadic lifestyle making it impossible for them to provide documents proving their status. The same problem is faced by Bedouins and their descendants in the United Arab Emirates.

The Jordanian government estimates that 150,000 Palestinian refugees in the country do not qualify for citizenship. It only granted them three-year travel documents, which do not imply citizenship, and granted West Bank residents who did not have other travel documents similar five-year documentation. According to human rights organizations, a further 1,200 citizens of Palestinian origin cannot travel back to Jordan because embassies abroad refuse to renew their passports. Around 400,000 Palestinians reside in Lebanon but they are not allowed to become citizens. Their socio-economic and political rights are severely curtailed. The question of citizenship is also a controversial issue in Israel, around whether in particular cases citizenship or identity cards are granted to Arabs so that they have rights as Israeli citizens, or whether they are considered Palestinians. Numerous cases on this matter go to court, as it has a key impact in terms of, for example, the right of one's spouse and children to get Israeli residency and political rights.

New migrant communities

Migrant workers

Migrant workers suffer multiple discrimination; the confiscation of passports, little or no protection under the labour laws, vulnerability to sexual assault, lack of equal protection under the law and disproportional representation among the prison population and in death penalty cases. Their problematic status combines with their racial origins, religious backgrounds, ethnicity and in some cases gender, to jeopardize their situation further, despite their large numbers in many Middle Eastern states.

Human Rights Watch, in its July 2004 publication, reported that the population of migrant workers in the six states of the Gulf Cooperation Council alone (Bahrain, Kuwait, Qatar, Oman, Saudi Arabia and the United Arab Emirates) amounted to 10 million. In many countries of the region, for example Saudi Arabia, pay scales are dependent on national origin, even for the same positions. Discrimination on the basis of national origin in terms of housing, social benefit, employment, pay, health and education is common throughout the region. A complex hierarchy of preferences in employment rights exists depending on whether one is a citizen, a Gulf Cooperation Council (GCC) citizen, Arab, Muslim or none of the above.

Non-citizens constitute around one-third of the around 700,000 population of Bahrain, 85 per cent of the population of the UAE and around a quarter of the Saudi population – but a reported 80 per cent of its prison population according to Human Rights Watch. Over 75 per cent of the population of around 750,000 of Qatar are non-citizens; foreigners make up approximately a quarter of the 2.3 million population of Oman and two-thirds of Kuwait's 2.7 million population. According to the US State Department report of 2004, 30–40 per cent of the attempted suicides in Bahraini psychiatric hospitals were carried out by foreign maids. Most non-citizens work in private businesses. In the case of Israel, in the vast majority of cases the law does not permit foreign workers to obtain citizenship or permanent residence status unless they are Jewish.

The most vulnerable of all migrant workers are domestic workers. Domestic foreign workers, who are overwhelmingly female, are particularly susceptible to

sexual abuse, rape, physical abuse and forced prostitution. It is also very common for the salaries of domestic workers to be withheld, their passports confiscated and their freedom of movement restricted. The situation for domestic workers in the GCC states deteriorated to such a low level that Indonesia and Bangladesh imposed a ban on the employment of their nationals as domestic workers in these states, and in early 2005 the Philippines government considered a similar move. The ban was lifted in GCC states that agreed minimum wages and work conditions for these nationals. Many embassies with large numbers of domestic workers have safe houses and procedures for their repatriation. Some governments have also introduced procedures for the assistance of such domestic workers. Kuwait, for example, has special staff in the labour office and a police office for these problems.

In recent years, a number of countries of the region have banned the common practice of employers confiscating the passports of their employees, for example the UAE and Saudi Arabia. The November 2003 Lebanese report to the Committee on the Elimination of Racial Discrimination describes this practice as 'deplorable'. However, it asserted that this was not a racially motivated practice. Since foreign workers need a sponsor in order to legally work in most of these countries, the practice of not allowing foreigners to change employers increases their vulnerability. In the UAE for example, most workers need to leave the country for six months before applying for a new employer, in Kuwait they need to have been there at least two years and in Bahrain one year.

Some domestic workers and also camel jockeys are under age, and some are trafficked or live in conditions of forced labour or slavery. The UAE has made the employment of under-age camel jockeys, some of whom are trafficked, illegal. These children are being repatriated to their countries in partnership with UNICEF in a US\$2.7 million project initiated in May 2005.

Trafficked persons

Few countries have specific laws on the prosecution of those involved in trafficking and the protection of victims of trafficking. For example, trafficking is not specifically prohibited by law in Bahrain and Kuwait. The media in the UAE is increasingly becoming prepared to cover stories about the trafficking of

women and girls, and the government has pledged to deal with the problem. In 2004, Saudi authorities uncovered a Yemeni-Saudi trafficking ring that dealt in children and trafficking for sexual exploitation. The Committee on the Rights of the Child's March 2005 Concluding Observations on the Islamic Republic of Iran expressed concern about the trafficking and sale of children for sexual purposes or 'temporary marriages'.

Refugees

The majority of the countries in the Middle East have no legal provision for the acceptance of refugees. Either refugees are handled by the UNHCR or they are dealt with on an exceptional and case-by-case basis. Refugees in Egypt, for example, are dealt with by the UNHCR. According to Article 42 of the Saudi Basic Law, political asylum is only granted 'if so required by the public interest'.

A large number of Palestinian refugees live throughout the region: 70,000 Palestinian refugees are registered in Egypt, and 700,000 Palestinians have been given Jordanian nationality while a further 120,000 have temporary residence permits. The November 2003 report of Lebanon to the Committee on the Elimination of Racial Discrimination notes that over 400,000 of the population of Lebanon are Palestinian refugees. Most reside in overpopulated camps as the government forbids the construction of permanent buildings in these areas. Only a small minority of Palestinians have work permits, and Lebanese law forbids Palestinians from working in 72 specified professions. They face numerous restrictions and severe discrimination in every aspect of life. In its April 2004 Concluding Observations, the Committee noted that Palestinian refugees faced discrimination in employment, health, housing and social services, and that they were discriminated against more than other non-citizens.

As noted above, Palestinians cannot apply for refugee status under Israeli refugee law, as they are considered to be under the protection of UNRWA (the UN Relief and Works Agency for Palestine Refugees).

The Islamic Republic of Iran's July 2002 report to the Committee on the Rights of the Child noted the large number of refugees in the country. The report indicated that refugee children without

identity cards are educated informally rather than through official educational facilities in order not to encourage illegal migration. The Committee's March 2005 Concluding Observations noted that refugee children without full documentation were not enrolled freely in Iranian schools. Concern was also expressed about unaccompanied refugee children from Afghanistan being deported back there, or exploited for cheap labour.

Minorities in the Constitutions of Iraq and Afghanistan

Iraq

The March 2004 Law of Administration for the State of Iraq for the Transitional Period was operational from 30 June 2004 and is to continue until the coming into being of a new permanent constitution with an elected Iraqi government, expected by December 2005.

The fact that the August 2005 draft constitution defines the system of government in Iraq as federal has huge implications for majority–minority relations in Iraq. Of course, the very definition of who constitutes a 'minority' in Iraq has shifted. Kurds and Arab Shias would have been minorities in terms of lack of access to power in Baathist Iraq, but now it is the Arab Sunnis who fear such remoteness from power. Article 4 of the Transitional Law stated that 'the federal system shall be based upon geographic and historical realities and the separation of powers, and not upon origin, race, ethnicity, nationality, or confession'. However, the draft constitution does not repeat this clause. It outlines the powers of the federal authorities in Chapter 4, and states that the federal authority will maintain the unity of Iraq. It states that Iraq's oil and gas resources belong to the whole population and will be administered by the federal authorities in cooperation with the governments of the producing regions and provinces, and in a way that will ensure balanced development throughout the country.

The Kurds have been the most vocal and insistent regarding federalism, keen to maintain or even enhance their autonomy as enjoyed through the Transitional Law under the Kurdistan Regional Government. Federalism has long been the most contentious issue within the Iraqi constitutional debate. Its impact goes beyond Iraq's borders to the region as a whole. The Shia–S Sunni tensions in Iraq have drawn comment from Iran and Saudi Arabia,

for example, and Kurdish autonomy in Iraq potentially impacts on Turkey's relationship with its Kurdish population. In September 2005, the Saudi Arabian Foreign Minister voiced fears that Iraq could split apart, disenfranchise its Sunni population and draw neighbouring countries into a wider conflict.

The two major issues that emerge in relation to minorities are the issues of the protection of minorities by the constitution and the question of balancing regional autonomy with centralizing tendencies. Much NGO activism and media attention has focused on the question of the protection of religious minorities in the new draft constitution. The fear was that reference to Islam as 'the main' source of legislation rather than 'a' source of legislation along with other sources of law (as stated in the Transitional Law) would compromise the rights of religious minorities by imposing Sharia law. The August 2005 draft constitution, however, reverted to the term of Islam being 'a' basic source of legislation in its Article 2. Religious minorities were further concerned about the reference that no law could be introduced in Iraq that contradicted the rules of Islam, as it could be used to repress minority rights and forbid conversion from Islam to other religions. It could further be interpreted to seriously impact women's rights, as it does in other Muslim countries such as Pakistan. The August 2005 constitutional draft, maintained language that no law could be against the rules of Islam, but *also* that it could not be against the principles of democracy or the rights and freedoms upheld in the constitution.

Article 2 further guarantees full religious rights for all, while maintaining the Islamic identity of the majority, and recognizing Iraq as a multi-ethnic as well as multi-religious country. Since the Iraqi Supreme Federal Court has the duty to oversee the constitutionality of all legislation, it is tasked with ensuring that all three strands – of Islam, democracy and rights – are upheld. Ideally, this will bring about a balanced consideration of all three criteria in all legislation. The draft constitution and the Transitional Law of Administration both prohibited all coercion in matters of thought and religion. This was particularly important, though perhaps ineffectual, in light of the fact that according to a number of sources tens of thousands of minorities have escaped from Iraq since spring 2003. Linguistic minorities were concerned that only the Arabic and Kurdish languages were being overtly protected in earlier constitutional drafts – Arabic as the official language of Iraq, but Kurdish as well as Arabic in the Kurdish region. This left out clear protection for Iraq's Turkmen, for example, and concern surrounds the survival of the language and the continuation of their schools. The August 2005 draft, however, guarantees in Article 4 the right of Iraqis to educate their children in their first language (mother tongue) in governmental or private educational institutions. It further recognizes the Turkmen and Assyrian languages as official where they reside, and it allows each region itself to recognize – by referendum – further official languages if approved.

The draft constitution was approved in a referendum held on 15 October.



Afghanistan

The Afghanistan Constitution came into force on 4 January 2004. It recognizes Afghanistan as an Islamic Republic and as an 'independent, unitary and indivisible state'. With regard to religious minorities, it is interesting that it is the constitutional chapter on 'The State' that protects religious freedom rather than the chapter on 'Fundamental Rights and Duties of Citizens'. Article 2 recognizes Islam as the religion of the state and that 'Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of the law.' Pashtu and Dari are recognized as the official languages of the state, but mention is made of nine other languages used in the country that are the third official languages in the areas where the majority speaks them. All these languages are to be effectively adopted and developed, and publications and broadcasting can be in all languages spoken in Afghanistan. However, the educational curriculum is to be unitary and based on Islam and 'national culture'.

The US State Department Country report noted continuing societal discrimination against minorities. This included restrictions on religious freedoms and the harassment of missionaries in Afghanistan. Social discrimination against the Hazara Shias, who have been discriminated against over a long period, continued. The State Department reported that 200 Hazaras returning from Iran in December 2004 were prevented from returning to their lands by a local leader in Herat.

Left: Women walking home from a polling station in Parwan, Afghanistan. Jeroen Oerlemans/Panos Pictures

As the previous penal code remains in force, blasphemy and apostasy are still theoretically punishable by death. Conflict between rival tribes and local commanders has led to casualties and insecurity impacted on the freedom of movement of ethnic groups. A particular instance of this was heavy fighting over natural resources between rival tribes in the provinces of Nangarhar and Logar. The State Department report highlights the effect this had on 10,000 Pashtuns hoping to return to their lands in the northern areas, from which they had been displaced since 1991. ■