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**Religious minorities in times of crisis:
the growing threats of discrimination, securitisation, and nationalism**

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*Minoranze religiose in tempo di crisi:
le minacce crescenti della discriminazione, securitizzazione, e nazionalismo **

ABSTRACT: In an increasingly unstable world with record-setting high levels of conflicts, displacement, environmental change and inequalities, religious and other minorities run the risk of being demonised and scapegoated. Portrayed as threats, of being disloyal to the State or of 'not assimilating sufficiently, religious and other minorities run the risk of being 'otherised' in the rising rhetoric of nationalistic populism used by political actors in an increasing number of regions of the world - and denied their basic rights to equality without any discrimination.

ABSTRACT: In un mondo sempre più instabile, con livelli record di conflitti, sfollamenti, cambiamenti ambientali e disuguaglianze, le minoranze religiose e di altro tipo corrono il rischio di essere demonizzate e usate come capri espiatori. Descritte come minacce, come persone sleali verso lo Stato o come "non sufficientemente assimilate", le minoranze religiose e di altro tipo corrono il rischio di essere "alterizzate" nella crescente retorica del populismo nazionalista utilizzata dagli attori politici in un numero crescente di regioni del

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mondo, e di vedersi negati i loro diritti fondamentali all'uguaglianza senza alcuna discriminazione.

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All... are equal... but [some] are more equal than others
(G. ORWELL, *Animal Farm: A Fairy Story*,
1945, Secker and Warburg)

1 – Introduction

Imagine a mother in her home with children who hears a distant sound which gets louder and louder. Eventually she sees a small propellor plane spraying a mist over the house and neighbouring homes. It fills the air and her children, including a nine-month-old baby, breathe in the mist and start coughing.

This what happened in Bulgaria during the COVID pandemic in 2020, when Roma communities were sprayed with disinfectant from crop dusters. In Slovakia, their villages were the only ones where the army was called in to conduct COVID testing. And across Central and Eastern Europe during the same period, reports of police using excessive force against Roma minorities rose sharply as officers were deployed to enforce lockdowns in their towns.

Many human rights organisations and experts warned that “oversecuritization” and police operations in Roma neighbourhoods violated the principles of non-discrimination and equality and should be stopped. They said that security officials in several countries with



significant Roma populations have used the pandemic to unlawfully target this particular minority group¹.

While the Roma are not in most cases members of a religious minority, their experience of mistreatment in times of crises is similar to what religious minorities also often encounter experience in other periods of emergency or social and political stresses.

What seems to occur can be divided into two categories: first is the bias and even scapegoating of certain religious and other minorities who increasingly experienced three particular types of vulnerabilities during the COVID pandemic because of inherent bias intolerance and discrimination, vulnerabilities in terms of accessibility, of faith-based hurdles, hate speech directed towards these minorities, and even violence².

There is secondly another category of related issues which should not be dismissed, and that is of the rise of religious majoritarian nationalism that instrumentalises the previous identified prejudices and scapegoating of specific religious or belief minorities, especially in times of crises for political and other purposes. Contrary to what might have been expected with the strengthening of human rights instruments and mechanisms after the Second World War, majoritarian nationalism has

¹ See UNITED NATIONS SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM AND UNITED NATIONS SPECIAL RAPPORTEUR ON MINORITIES, 'Stop hate speech and racial discrimination against the Roma minority', 13 May 2020; and Policing the Pandemic: Human Rights Violations in the Enforcement of COVID-19 Measures in Europe, Amnesty International, 21 June 2020 (<https://www.amnesty.org/es/wp-content/uploads/2021/05/EUR0125112020ENGLISH.pdf>).

² A. MADERA, K. WONISCH (eds.), *Special Issue: The Impact of the COVID-19 Pandemic on Religious Minorities*, in *International Journal for Religious Freedom*, vol. XVI, no. 1, 2023; A. MADERA, *The Implications of the COVID-19 Pandemic on Religious Exercise: Preliminary Remarks*, in *Laws*, vol. 10, n. 2, 2021, p. 44 ff.; A. MADERA, *Preliminary Remarks on the Impact of COVID-19 on the Exercise of Religious Freedom in Europe*, in J. CREEMERS and T. KOPALEISHVILI (eds.), *Religious Freedom and COVID-19. A European Perspective*, Routledge, Abington, 2025, pp. 43-71; R. MEDDA-WINDISCHER, *Introduction to Special Focus: COVID-19 and Minorities*, in *European Yearbook of Minority Issues*, vol. XIX, Brill, Nijhoff, 2022, pp. 77-80; B. CONWAY, L. KÜHLE, F. ALICINO, G. BİRSAN (eds.), *Religion, Law and COVID-19 in Europe. A Comparative Analysis*, Helsinki, Helsinki University Press, 2024; P. CONSORTI (ed.), *Law, Religion and COVID-19 Emergency*, DiReSoM Papers 1, Pisa, 2020 (<https://diresom.net/2020/05/07/diresom-papers-1-ebook-law-religion-and-covid-19-emergency/>); G. D'ANGELO, *Pandemic, Law, Religion. Brief (but Problematic) Remarks*, in *Journal of Mediterranean Knowledge*, vol. 7 n. 1, 2022, pp. 41-56; M. TOSCANO, *Emergenza sanitaria e libertà di religione*, Giappichelli, Torino, 2024.



increasingly taken cultural and religious aspects in more recent years, to the point where religious minorities in Europe and elsewhere have started experiencing more and more restrictions or disadvantages that in many cases can be considered discriminatory in international human rights law.

2 - A World in Crisis - and the Consequences for and Vulnerability of Minorities

“Our world is plagued by a perfect storm on a number of fronts. Start with the short-term, a global economic crisis [...]. We see deepening inequalities and a rapidly unfolding cost-of-living crisis [...]. Add to all of that the lingering effects of the pandemic. COVID-19 is still straining economies - while the world’s failure to prepare for future pandemics is straining credulity. Somehow - after all we have endured - we have not learned the global public health lessons of the pandemic. We are nowhere near ready for pandemics to come”.

UN Secretary General António Guterres³

2.1 - COVID-19 Crisis and its Effects for Minorities: A Case Study

The UN Special Rapporteur on Minority Issues frequently warned in his 2021 thematic report to the UN Human Council on hate speech in social media about the exploitation of COVID-19-related fears, prejudices and conspiracies by groups and politicians to scapegoat religious or belief minorities:

“36. The Secretary-General did recognize that the pandemic had given rise to a new wave of hate, xenophobia, scapegoating and scaremongering, and that anti-foreigner sentiment had surged online and in the streets, antisemitic conspiracy theories had spread, and anti-Muslim attacks related to COVID-19 had occurred.⁴ More precisely, this hatred mainly targets minorities. The pandemic has been weaponized by some and monetized by others, but this has been increasingly the case for the past decade. Minorities and other

³ Special Address by António Guterres, Secretary-General of the United Nations, Davos World Economic Forum, 18 January 2023 (<https://www.weforum.org/stories/2023/01/davos-2023-special-address-by-antonio-guterres-secretary-general-of-the-united-nations/>).



vulnerable groups constitute the majority of victims of incitement to hatred”⁴.

Unfortunately, what the above identifies also is that particular religious or belief minorities have been specifically scapegoated and accused as spreaders of the COVID-19 virus, particularly in social and other media. This has included hate speech and even incitement to violence against them. The scale and severity of hate speech against minorities in general is dramatic, with three quarters or more hate speech targeting minorities.

This has led to an alarming rise in verbal and physical abuses against Yazidis and Kakais in Iraq; Christians, Hazara Shias and Hindus in Pakistan, and Cambodia’s Khmer Muslim minority. UN experts have amongst others warned, in response to the Government of Sri Lanka imposing cremation ostensibly as a health precaution measure against the will of religious or belief minorities in that country, “hostility against [religious] minorities could exacerbate existing prejudices, intercommunal tensions, and religious intolerance while inciting further hatred and violence [...]”⁵. All of these examples suggest that religious minorities are not only particularly impacted; they seem to have been targeted intentionally.

What the above also demonstrates is that the COVID-19 pandemic is not just a health issue; social media have made it additionally a disease of the mind that fuels and exacerbates xenophobia, hate and exclusion, or what the United Nations Secretary-General António Guterres termed a “tsunami of hate and xenophobia”. The World Health Organization has called it an “infodemic” of harmful disinformation and public hate speech. There may also be a more systemic impact to this health crisis, in that the spread of Covid-19 both exacerbated and echoed historical and structural patterns of bigotry and discrimination of religious or belief minorities on a global scale.

⁴ F. DE VARENNES, *UN Special Rapporteur on Minority Issues, Hate Speech, Social Media and Minorities*, 3 March 2021, UN Doc A/HRC/46/57 (<https://docs.un.org/en/A/HRC/46/57>); R. BOTTONI, *Implications of the COVID-19 Pandemic for Religious Minorities from the UN Perspective*, in *International Journal for Religious Freedom*, vol. XVI, n. 1, 2023, pp. 3-18.

⁵ Sri Lanka: Compulsory cremation of COVID-19 bodies cannot continue, say UN experts, 25 January 2021 (<https://www.ohchr.org/en/press-releases/2021/01/sri-lanka-compulsory-cremation-covid-19-bodies-cannot-continue-say-un>).



There has been an increase in dangerous rhetoric that demonizes the “other,” including record-levels of antisemitism and Islamophobia, as well as the blaming of other religious minorities for spreading the virus. In 2023, it was reported that then US Presidential Candidate Robert F Kennedy Jr claimed that the COVID virus was developed to spare Jews and Chinese people⁶ - an alarming claim in the context of a crisis that also reinforces and propels further rising forms of majoritarian religious nationalism, whether it is in the United States or in European countries.

The COVID pandemic seems to have also fed upon the rise of nationalism, but of nationalism with a religious majoritarian tint in many parts of the world, even if at times it seems to emanate from an officially secular state such as France or China. Even in such cases, the COVID crisis seemed to contribute to the reinforcement of certain ‘national values’ that are not neutral in respect of religious or belief minorities.

2.2 - COVID and Nationalism Surge Together

COVID appears to have provided opportunities for political leaders to instrumentalize the pandemic and even scapegoating minorities to advance other agendas. One of these is to take advantage of security and other measures to prevent the spread of COVID-19 to impose various restrictions on the activities of minorities in a disproportionate and biased way, at least in part to portray themselves as the true or strongest protectors of the nation and the health and safety of citizens against despised or distrusted ‘others’.

It is not difficult to see something more sinister at play when one considers the broader context where religious and other minorities seem to have been specifically and disproportionately targeted during the pandemic. In the earlier example of Bulgaria where Roma communities were sprayed with disinfectant, happened after one nationalist party leader described the communities as “nests of infection.” In Slovakia, Roma villages were also the only ones where the army conducted testing. Still in Europe, there were increasing reports of police using excessive force against Roma as they were deployed to enforce lockdowns in communities where they were concentrated. There have also been

⁶ *New York Times*, R.F. KENNEDY Jr., *Airs Bigoted New Covid Conspiracy Theory About Jews and Chinese*, 15 July 2023 (<https://www.nytimes.com/2023/07/15/us/politics/rfk-jr-remarks-covid.html>).



reports of Roma minorities subjected to a cordon sanitaire: that the movements of people within these sealed communities were rigidly controlled and limited, their neighbourhoods patrolled by security forces armed with automatic rifles. The pandemic was raised as a reason to use disproportionate policing methods - but mainly against the Roma and other religious and other minorities outside of Europe, such as the Bedouin in Israel and Dalits in South Asia - not members of the majority community in these countries.

3 – Religious or Belief Minorities and the Growing Threats of Discrimination, Securitisation, and Nationalism

3.1 - Discrimination and Religious Minorities: Barriers, Access and Accessibility during Health Crises

The case study of the COVID pandemic crisis can be used to identify other areas where religious and other minorities may face particular hurdles in being treated equally without discrimination and have other human rights disregarded or ignored⁷.

One area of concern relates to accessibility. Some members of religious or belief minorities may not be effectively reached by state awareness campaigns, or may face other types of barriers in accessing vaccines and public health measures and campaigns. Certain religious or belief minorities may for example use among themselves a language which differs from that of the majority of the country, or rely on information shared among themselves thru community or religious leadership. There may be significant barriers because vaccination centres are removed from or not readily accessible for some religious or belief minorities. A further barrier can occur where public health campaigns to prevent the spread of the virus or vaccination campaigns are not culturally sensitive or targeting significant religious or belief communities, or not conducted in the languages most appropriate and

⁷ S. FERRARI, K. WONISCH, R. MEDDA-WINDISCHER, *Tying the Knot: a Holistic Approach to the Enhancement of Religious Minority Rights and Freedom of Religion*, in *Religions*, 2021, vol. 12, n. 9, pp. 1-17; D. FERRARI, *New and Old Religious Minorities in International Law*, in *Religions*, 2021, vol. 12, n. 9, pp. 1-19.



effective to truly reach out and communicate such an essential, life-saving message.

These situations can constitute discrimination against minorities who are disproportionately impacted or excluded. Unfortunately, this is not an unheard of problem in Europe, as some countries in recent years have increasingly restricted public communication efforts, including public health campaigns, to the use of the official language only. By excluding the use of a minority language to effectively reach and communicate with a community which may also be the language of a religious minority, then in times of crisis such as the pandemic this would be unreasonable and unjustified, and therefore in violation of the prohibition of discrimination on the basis of language, ethnicity or religion in international law⁸ - although it is not so clear whether it would violate European human rights obligations as will be shown later.

Furthermore, issues of accessibility and acceptability which may occur - and be identified and addressed - because of particular faith-based hurdles. There have been Jewish, Islamic and Hindu concerns expressed over some vaccines because of their rumoured contents, including pork gelatin or using 'cow blood' or bovine products. To not address such issues in Europe and elsewhere, during times of public health crises, could also involve denial of human rights obligations, in particular the prohibition of discrimination, were State authorities not take into account and addressing effectively and reasonably these faith-based concerns.

3.2 - Whether Crisis or Not: Nationalism and Discriminatory Treatment of Religious Minorities in Europe

In 2013, the then Council of Europe Commissioner for Human Rights warned that British, Italian and other defiance in a number of European States could "be the beginning of the end of the ECHR system"⁹.

⁸ UN SPECIAL RAPPORTEUR on *Minority Issues, Language Rights of Linguistic Minorities: A Practical Guide*, 2017, p. 9: "The use of a minority language as a language for service delivery and communication also results in better and more effective delivery of public services by improving the quality of and access to health care, social services, education, employment advice, justice and other public services" (https://www.ohchr.org/sites/default/files/Documents/Issues/Minorities/SR/LanguageRightsLinguisticMinorities_EN.pdf).

⁹ *Memorandum of Nils Muižnieks*, Council of Europe Commissioner for Human



European majoritarian populism began almost two decades ago to raise doubts about the European human rights system, and other European institutions, raising national values or traditions, state sovereignty, the 'democratic' will of the majority, but also more generalised claims asserting broadly the need to ensure public safety or security. More subtly, States such as France have raised new grounds for restricting human rights which had until recently never been considered acceptable, such as the concept of 'living together' ('vivre-ensemble'), usually in combination with the margin of appreciation doctrine (another relatively recent 'innovation' not mentioned in any human rights treaty)¹⁰.

This growing reticence to uphold universal human rights obligations in Europe, involving religious or belief minorities, is the initial unanimous ECHR judgment in *Lautsi v. Italy*¹¹, which concluded that an Italian law mandating a crucifix in public school classrooms violated the freedom of religion of individuals who belonged to non-Christian religious or belief minorities. This however caused an uproar among some European governments. More than a dozen Member States of the Council of Europe, in addition to Italian national authorities, mounted an unprecedented opposition to the 'non-sensical' result

Rights, 10 October 2013(<https://rm.coe.int/16806db5c2>); M. VENTURA (ed.), *The Legal Status of Old and New Religious Minorities in the European Union*, Proceedings of the XXX Conference, Siena, 15-17 November 2018, Granada, Editorial Comares, 2021; J. PASQUALI CERIOLI, (Non) conclusioni: tra questioni su minoranze e laicità positiva negli attuali anni Venti, in *Stato, Chiese e pluralismo confessionale*, n. 13, 2021, pp. 181-184; E. SKREBO, I diritti politici delle minoranze alla luce della giurisprudenza convenzionale, in N. MARCHEI, S. NINATTI (eds.), *Diritto e società plurale: questioni aperte*, Torino : Giappichelli, 2024, pp. 171-200.

¹⁰ Following the concerns over the unanimous 2009 judgment of *Lautsi v. Italy* which contradicted 'European traditions and values', an amendment was ultimately put forth in Protocol 15 to the European Convention on Human Rights so that the Preamble of the European Convention on Human Rights include the following: "Affirming that the High Contracting Parties, in accordance with the principle of subsidiarity, have the primary responsibility to secure the rights and freedoms defined in this Convention and the Protocols thereto, and that in doing so they enjoy a margin of appreciation, subject to the supervisory jurisdiction of the European Court of Human Rights established by this Convention". Protocol 15 entered into force on 1 August 2021 (<file:///C:/Users/fdeva/Downloads/Protocol%20No.%2015%20to%20the%20European%20Convention%20on%20Human%20Rights%20enters%20into%20force-1.pdf>).

¹¹ Application no. 30814/06, European Court of Human Rights Second Section, 3 November 2009.



against European national 'traditions' and 'culture' meaning, meaning those of the Christian religious majority. The reactions and pressure of these States was such that two years later, the Grand Chamber of the European Court of Human Rights did a complete about face: 15 out of 17 judges ruled the court should 'defer' to Italian authorities and in essence not fully consider or apply freedom of religion in the circumstances since there was no 'unanimity' in Europe on the issue and "[...] the decision whether or not to perpetuate a [religious and cultural] tradition falls in principle within the margin of appreciation of the respondent State"¹². Since the 'tradition' of Christian crosses in public school is a (presumably) European tradition, then the judges of the European Court of Human Rights had to accept that Italy had a wide margin of appreciation in determining what was appropriate - and implicitly not fully and objectively consider whether or not freedom of religion was being breached for non-Christian minority children.

Lautsi v. Italy was perhaps the predictable result of a trend which had been building with nationalism and populism, reflecting mainly majority religious and cultural values, in Europe. But it was also the precursor of a drive which has gone much further and continues to deeply impact on the whole human rights approach to religious or belief minorities in Europe, as well as apparently leading to the enshrinement of pro-Christian majoritarian biases in the interpretation of the rights of religious or belief minorities in European institutions.

Implicitly, the *Lauti v. Italy* case contributed to a drive to 'reform' the European Court of Human Rights by pushing the need for judges to defer to national approaches and sovereignty and make greater use of the margin of appreciation doctrine in areas of culture and religion. It led the year following the initial 2009 judgment to high-level multilateral conferences on reforming the European Court of Human Rights provide platforms for States demanding that:

"[...] the Court [...] must] defer more to member states. For example, the Italian representative in Interlaken stressed that: I would like to reiterate the subsidiary role of the Court in respect of national courts. [...] the questions which touch national feelings and traditions must be regulated on a national level [...]. The Dutch government stated in preparation for the Izmir conference that: [...]"

¹² *Lautsi v. Italy*, Grand Chamber of the European Court of Human Rights, 18 March 2011.



the Netherlands will call for the Court to allow more scope for state parties' "margin of appreciation". The Dutch criticism was fuelled both by right-wing politicians' principled resistance against international judges overriding elected politicians and by specific judgments [usually involving minorities such as Iraqi refugee seekers]"¹³.

These efforts by Italy, the Netherlands and the United Kingdom, amongst others, directly contributed to the adoption and entry into force in 2021 of Protocol 15 and the addition of the margin of appreciation doctrine in the Preamble of the European Convention on Human Rights, sending a clear political and legal signal that judges of the European Court had to show significant judicial restraint in 'sensitive areas' such as religion.

This became quite evident in 2018, when during the Danish government chairmanship of the Council of Europe chairmanship to promote 'reforms' in a draft "Copenhagen Declaration" which asserted that States and their institutions had primary responsibility for human rights, and not the European Court of Human Rights¹⁴. These efforts were largely linked to what was perceived as the instrumentalization of a public outcry in Denmark over the blocking of the deportation of a minority Roma of Croatian nationality.

Overall, two simultaneous criticisms of the European Court of Human Rights neutrality and objectivity when dealing with minorities have arisen from the observed trend of the last twenty years ago: (1) that some European "governments have directly influenced the Court by appointing more restrained judges. Combining matching and a difference-in-differences estimator, we find strong evidence of the Court exercising more restraint towards consolidated democracies that have publicly criticized the Court's interference with national parliaments and national courts at multilateral reform conferences"¹⁵ and (2) that the entrenchment of a wide margin of appreciation in 'sensitive' areas has led to a significant and observable bias against fully and objectively implementing the international human rights of minorities, particularly in religious, cultural and linguistic areas.

¹³ Backlash and Judicial Restraint, p. 772.

¹⁴

https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/nyheder/draft_copenhagen_declaration_05.02.18.pdf

¹⁵ Backlash and Judicial Restraint, p. 782.



This trend can be seen more widely globally with populist nationalism, often with a religious, linguistic or ethnic dimension, becoming a growing political force in parts of Europe. It at times is accompanied by growing hostility or at least intolerance of the culture, languages or religions of some minorities.

3.3 - Nationalism and Religious and other Minorities: A Global Threat

Further examples outside of Europe of growing nationalism impacting on the rights of minorities - especially religious and ethnic minorities such as the Tibetans, Uyghurs and Hui - can be seen in the Peoples Republic of China, where millions of children are separated from their families for most of their childhood in the name of integration - when it seems more likely to be new efforts at forced assimilation in an increasingly Han nationalistic state. Grave concerns have for example been expressed over the treatment of some 1 million Tibetan school children¹⁶, and perhaps as many as 800,000 Uyghur children who are separated from their families for most of the time to be taught almost exclusively in the official Putonghua (Mandarin) language as part of policies which should easily be described as fundamental breaches of the right to education without discrimination, of private and family life, and aimed at their forced assimilation¹⁷. Parents from these communities cannot freely teach their beliefs to their children, The scale of what is occurring is almost unprecedented in recent history, with increasing majoritarian nationalist policies and laws that are discriminatory and in violation of other basic human rights obligations targeting mainly religious or belief minorities.

In Saudi Arabia, a report on hate speech and religious minorities by Human Rights Watch documents that Saudi Arabia has permitted government-appointed religious scholars and clerics to refer to religious minorities in derogatory terms or demonize them in official documents and religious rulings that influence government decision-making. In recent years, government clerics and others have used the internet and

¹⁶ China: UN experts alarmed by separation of 1 million Tibetan children from families and forced assimilation at residential schools (<https://www.ohchr.org/en/press-releases/2023/02/china-un-experts-alarmed-separation-1-million-tibetan-children-families-and>).

¹⁷ Rights experts warn against forced separation of Uyghur children in China (<https://news.un.org/en/story/2023/09/1141502>).



social media to demonize and incite hatred against Shia Muslim minority and others who do not conform to their views¹⁸.

In the United States last year was the highest year on record for documented reports of harassment, vandalism and violence directed against Jews¹⁹. These record-breaking numbers are part of a consistent, five-year upswing in the number of antisemitic incidents. Ironically, the fight against antisemitism has been diverted - some would argue distorted - for arguably nationalistic instrumentalization and the targeting of other 'unpopular' religious minorities. Following the election of Donald Trump as President of the United States in November 2024, US authorities began in March 2025 of arresting and deporting mainly Muslim minority students, even threatening the removal of permanent resident status (known as 'Green Card' status in that country)²⁰.

Such bias against certain religious or belief minorities also became particularly and disturbingly obvious during the 2024 Olympics in Paris: French athletes, and only French athletes, were barred from wearing the hijab, or headscarf, while athletes from other countries were allowed to wear religious clothing. This difference of treatment was decried by UN human rights officials as well as international human rights organisations as blatant discriminatory treatment of a religious minority, even if it only applied to the citizens of France itself²¹.

In India, hate speech directed at religious minorities has become a routine feature of public life. From 2009 to 2014 there were only 19 instances of hostile rhetoric towards minorities by high-ranking politicians. But from 2014, when the BJP came into power, to the start of 2022 there were 348 such instances - a surge of 1,130 percent²². The

¹⁸ HUMAN RIGHTS WATCH, *'They Are Not Our Brothers': Hate Speech by Saudi Officials*, 2017 (<https://www.hrw.org/report/2017/09/26/they-are-not-our-brothers/hate-speech-saudi-officials>).

¹⁹ AXIOS, ADL: *Antisemitic incidents hit record high in year since Oct. 7*, 6 October 2024 (<https://www.axios.com/2024/10/06/adl-antisemitic-incidents-record-year-oct-7>).

²⁰ Arrest of pro-Palestinian protester shows escalation in Trump deportation efforts, NPR Report, 10 March 2025 (<https://www.npr.org/2025/03/10/nx-s1-5323166/arrest-green-card-palestinian-protest>).

²¹ UNITED NATIONS, *France: Hijab ban during sports, 'discriminatory and must be reversed' say experts*, 28 October 2024 (<https://news.un.org/en/story/2024/10/1156226>).

²² Middle East Eye, *Facebook in India: Why is it still allowing hate speech against Muslims?*, 6 October 2022 (<https://www.middleeasteye.net/big-story/facebook-meta-india-muslims-allow-hate-speech>).



situation in India is particularly noteworthy since, despite being the world's largest democracy, it at the same time risks becoming one of the world's main generators of instability, atrocities and violence, because of the massive scale and gravity of the violations and abuses targeting mainly religious or belief minorities such as Muslims, Christians, Sikhs and others. A study noted a 786% increase in hate crimes against mainly religious and other minorities between 2014 and 2018²³. It is also widely acknowledged that hate speech and content inciting violence against religious minorities in social media in India is widespread, increasing, vitriolic, involving incitement to violence and even calls to genocide, and largely left unchallenged by State authorities - and even propagated by high level government officials. Official silence over violent attacks and supportive rhetoric is encouraging majority nationalist groups to even more brazen violence with a religious tint. The nationalism involved is not just individual or local, it is systematic and a reflection of political religious nationalism. This political nationalism against religious or belief minorities extends to the most fundamental aspects of exclusion: citizenship. There is a discriminatory citizenship determination process in Assam, and potentially other regions of the country which could lead to millions denied citizenship, mainly from the Muslim minority community. This process must be seen in the light of the 2019 Citizenship (Amendment) Act which provides a fast track to Indian citizenship for individuals unless they are Muslims. There are clear concerns at the United Nations this may be part of an effort to create a religious and discriminatory test for Indian citizenship²⁴.

In Afghanistan, the widespread violence against religious minorities is not always sufficiently acknowledged at the United Nations or reported by mainstream media. Those who are more vulnerable, more at risk, more likely to be persecuted, brutalized, and even to be executed are members or religious or belief minorities such as the Shia Hazara. Even before the return of the Taliban however, religious minorities such as the Sikhs and Hindus were not recognised as citizens under the Constitution of Afghanistan.

²³ CNN, *Deadly communal violence flares in India a month before world leader summit*, 2 August 2023 (<https://www.cnn.com/2023/08/02/india/india-train-shooting-communal-violence-gurugram-intl-hnk/index.html>).

²⁴ UN Special Rapporteur on Minority Issues, *Statelessness a minority issue*, Doc. A/73/205, 20 July 2018 (<https://docs.un.org/en/A/73/205>), p. 10.



And finally, the war between Russia and Ukraine have provided a convenient pretext in 2024 of a security crisis to completely ban the activities of a religious minority community²⁵.

Similar phenomena occur in many parts of the world, from Europe to Africa, and from Asia to Latin America.

3.4 - The Human Rights of Religious or Belief Minorities: Dissonance and Conflict between Europe and Global Obligations

There are mounting dissonant even contradictory cases between the interpretation of fundamental human rights in Europe and the United Nations, particularly when it comes to the rights of religious or belief minorities. From about the mid-2000s numerous cases such as *F.A. v. France*²⁶, *Sonia Yaker v. France*²⁷, *Miriana Hebbadj v. France*²⁸, *Hudoyberganova v. Uzbekistan*²⁹, and *Bikramjit Singh v. France*³⁰ saw the UN Human Rights Committee reject the invocation of the margin of appreciation doctrine, vague restrictions on universal human rights standards based on abstract ‘vivre-ensemble’ principle without any evidence of why such restrictions were permissible, and also dismissed State proposed restrictions that did not appear in any international human rights treaty.

The European Court of Human Rights often arrived at the opposite result in similar, in some situations practically identical, cases involving minorities, usually after invoking the margin of appreciation

²⁵ In August 2024, Ukraine banned the Ukrainian Orthodox Church of the Moscow Patriarchate. See Human Rights Watch, *Ukraine: New Law Raises Religious Freedom Concerns; Legitimate Security Concerns Not a Green Light to Infringe on Rights*, 30 October 2024 (<https://www.hrw.org/news/2024/10/30/ukraine-new-law-raises-religious-freedom-concerns>).

²⁶ UN HUMAN RIGHTS COMMITTEE, communication No. 2662/2015, views of 16 July 2018 (ban on wearing a headscarf in the workplace).

²⁷ UN HUMAN RIGHTS COMMITTEE, communication No. 2747/2016, views of 17 July 2018 (blanket ban on wearing the full-face veil in public).

²⁸ UN HUMAN RIGHTS COMMITTEE, communication No. 2807/2016, views of 17 July 2018 (blanket ban on wearing the full-face veil in public).

²⁹ UN HUMAN RIGHTS COMMITTEE, communication No. 931/2000, views of 18 January 2005 (student excluded from university because she refused to remove the headscarf).

³⁰ UN HUMAN RIGHTS COMMITTEE, communication No. 1852/2008, views of 1 November 2012 (student excluded from public school for wearing conspicuous religious items or clothing).



doctrine and largely accepting at face value the arguments or assertions presented by national authorities or institutions based on claims of public order, security, safety or to protect the rights of others - but with no attempt to verify if these were factually and objectively valid. The result is rather stunning: whereas UN human rights mechanism led to conclusions of clear violations of the rights of minorities in areas of religion, the European Court of Human Rights usually concluded that a State's wide margin of appreciation meant that the human rights of minorities could be restricted - a result clearly incompatible with universal human rights obligations.

The tensions between the European human rights and universal human rights approaches when dealing with the rights of minorities stand out dramatically in the treatment of two students who were of the same age at the same school, both excluded at the same time from the French public education system for refusing to remove their keski, the turban worn by followers of the Sikh faith. One of them, *Jasvir Singh v. France*³¹, brought his case to the European Court of Human Rights after exhausting domestic remedies, while the other, *Bikramjit Singh v. France*, went instead to the global human rights mechanism to the UN Human Rights Committee. Despite identical circumstances, the two human rights bodies had diametrically opposed views as to whether the rights of the two students from minority backgrounds were breached³². Additionally, the European Court of Human Rights has frequently refused outright to even consider a significant number of cases involving religious or belief minorities and their human rights claims³³.

For the European Court of Human Rights, the issue of the human rights of Mr. Singh were not even to be considered admissible. It was sufficient for a State to simply raise the argument it was to protect public order or the rights of others to be a valid restriction in matters where the

³¹ *Jasvir Singh v. France*, case No. 25463/08, decision of the European Court of Human Rights, 30 June 2009.

³² Other contradictory views between the European Court of Human Rights and the UN Human Rights Committee exist in almost identical cases involving the human rights of minorities. See for example *Mann Singh v. France*, Case no 4479/07, judgment of the European Court of Human Rights of 13 November 2008, contra (Mann) *Singh v. France*, UN Human Rights Committee views of 26 September 2013, communication CCPR/C/108/D/1928/2010.

³³ *Aktas v. France*, case No 43563/08, European Court of Human Rights decision of 30 June 2009.



State had a wide margin of appreciation, and thus not to be questioned as to its objective basis or validity:

“The impugned legal provisions did not affect the children’s religious beliefs but pursued the legitimate aim of protecting public order and the rights and freedoms of others. Their purpose was to preserve the neutrality and secularity of teaching establishments and they applied to all conspicuous religious symbols: manifestly ill-founded”.

The out-of-hand rejection of the human rights claims of Mr. Singh is in a sense quite stunning: it is clearly an objectively obvious fact that for members of the Sikh religious minority it is a restriction of the manifestation of their belief not to be allowed to wear a keski. The Sikh turban is widely considered for men to be a mandatory article of their faith. The European Court’s further asserts that the restrictions involved has the legitimate aim of protecting public order or the rights of freedoms of others in the name of “neutrality and secularity of teaching establishments”, but nowhere is there any evidence as to how exactly such rights are involved, and why it is specifically ‘necessary’ to restrict one of the most fundamental rights in international law, which is a basic requirement of this human rights obligation.

The UN Human Rights Committee reached the opposite conclusion in the identical case of *Bikramjit Singh v. France*, pointing out directly and in fully developed conclusions that:

“8.3 [...] a keski or turban is not simply a religious symbol [for members of the Sikh minority], but an essential component of their identity and a mandatory religious precept [...].

8.7 [...] France] has not furnished compelling evidence that, by wearing his keski, the author would have posed a threat to the rights and freedoms of other pupils or to order at the school. [...] It] has not shown how the sacrifice of those persons’ rights is either necessary or proportionate to the benefits achieved. For all these reasons, the Committee concludes that the expulsion of the author from his lycée was not necessary under article 18, paragraph 3, infringed his right to manifest his religion and constitutes a violation of article 18 of the Covenant”.

In other cases, the UN Human Rights Committee also concluded - again in contradiction to the views of most European Court of Human Rights judges who defer to national authorities in application to a wide margin of appreciation and other principles - that it was not permissible



to restrict the freedom of religion of minorities under vague concepts as 'vivre-ensemble' and no objective demonstration as to how allowing women from a religious or belief minority to wear a veil in public spaces could be a threat:

«7.10 However, the Committee observes that the protection of the fundamental rights and freedoms of others requires identifying what specific fundamental rights are affected and the persons so affected. The exceptions in article 18 (3) are to be interpreted strictly and not applied in the abstract. In this case, the Committee observes that the concept of "living together" is a very vague and abstract term. The State party has not identified any specific fundamental rights or freedoms of others that are affected by the fact that some people present in the public space have their face covered, including fully veiled women. Nor has the State party explained why such rights would be "unfairly" obstructed by wearing the full-face veil, but not by covering the face in public through the numerous other means that are exempted from the Act. The right to interact with any person in a public space and the right not to be disturbed by the fact that someone is wearing the full-face veil are not protected by the Covenant and cannot therefore constitute permissible restrictions within the meaning of article 18 (3) of the Covenant [freedom of religion]»³⁴.

The end result is that fundamentally, the rights of religious or belief minorities are clearly less protected under the European mechanism for human rights, which would in more recent years moved in the general direction of deferring to State determination when involving 'sensitive' matters of religion through the invocation of the interpretive doctrine of the margin of appreciation. It would seem therefore that claiming restricting the human rights of religious or belief minorities for reasons of public order, or presumably related issues of security or crises, could easily be raised to restrict or deny the full and equal protection of the rights of individuals who are members of such minorities in Europe where 'values' and 'traditions' nationalism has increasingly taken the route of religious and cultural preferences³⁵. The above however, it must be emphasised, is contrary to the universal

³⁴ UN HUMAN RIGHTS COMMITTEE, communication No. 2807/2016, views of 17 July 2018 (blanket ban on wearing the full-face veil in public).

³⁵ N. MARCHEI, D. MILANI (eds.), *Freedom of Religion, Security and the Law. Key Challengers for a Pluralistic Society*, New-York-Torino, Giappichelli-Routledge, 2023.



nature of human rights in international law and involves restrictive interpretations which do not exist and are not allowed at the global level, hence the divergence between European judgments which are clearly 'state-biased', and international conclusions which apply objectively and neutrally human rights standards.

4 - Conclusion: Universal Human Rights for All, including Minorities?

«Around the world, we are seeing a disturbing groundswell of xenophobia, racism and intolerance [...]. Public discourse is being weaponized for political gain with incendiary rhetoric that stigmatizes and dehumanizes minorities, migrants, refugees, women and any so-called "other"».

Secretary-General António Guterres³⁶

The current global context is of an unstable, uncertain and insecure world. These are the conditions where it is the rights of the world's most marginalised which are under greatest threat, and in many countries, these are usually minorities, quite often religious or belief minorities including though not exclusively in Europe. They are prone to be the main targets of hate speech, statelessness, and some of the world's worst atrocities: the victims of genocide and ethnic cleansing as the Shoah, or Holocaust, ought to remind us³⁷.

There are a number of ways forward: there must be recognition of the nature and scale of the denial of the human rights of particular communities who find themselves mainly targeted, and among these one sees religious or belief and other minorities being increasingly singled out by politicians and other actors who see advantages in instrumentalizing - during times of crises - prejudice, fear and even intolerance and racism to advance their political and other agendas. Unless one understands the root causes of why the rights of minorities are being weakened and cast aside so easily in European institutions such as the European Court of Human Rights, then the undermining of the

³⁶ Secretary-General's statement on intolerance and hate-based violence, *UN Strategy and Plan of Action on Hate Speech*, 29 April 2019 (<https://www.un.org/sg/en/content/sg/statement/2019-04-29/secretary-generals-statement-intolerance-and-hate-based-violence>).

³⁷ C. CIANITTO, *Freedom of expression and freedom of religion: drawing the lines between hate speech, blasphemy and free speech*, in M.C. GREEN, T.J. GUNN, M. HILL (eds.), *Religion, Law and Security in Africa*, ACLARS, 2018, pp. 81-96.



universal nature of human rights will continue unabated and conflict with the global human rights system.

The absence of clarity in what are the rights of religious or belief and other minorities during periods of instability and insecurity, as well as the prejudice, bias and even racism and intolerance which often accompany such times of crises, do not lend themselves to greater certainty in the full and equal implementation of their human rights, providing therefore greater uncertainty and hence ability for politicians and governments to succumb to the darker aspects of growing majoritarian nationalism.

At the international level, greater certainty and more detailed prescription of what are these rights in times of crises can be found in the first proposal for a global treaty on the rights of minorities at the United Nations. Specifically, it includes a section on the rights of religious or belief and other minorities recently presented to the UN Human Rights Council and General Assembly³⁸. There are certainly some positive developments in some areas, such as initiatives like the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence which focuses very much on minorities of belief or religion, and incorporates what is called the #Faith4Rights toolkit which provides practical peer-to-peer learning modules, including on addressing incitement to hatred and violence in the name of religion³⁹. These however have little impact where it is the State itself which discriminates against and targets minorities.

European institutions also need to redress the erosion of universal standards that appear to impact disproportionately religious or belief minorities. This would involve also clarifying what are the human rights of religious or belief and other minorities - something which in theory exists but have been seriously undermined by recent trends such as growing nationalism. The main treaty dealing with national minorities should therefore be directly enforceable as legally binding on States which have ratified it⁴⁰. Currently, individuals cannot bring any breach

³⁸ F. DE VARENNES, UN Special Rapporteur on Minority Issues, *Proposal for a Draft Global Convention on the Rights of Minorities*, Report to the UN Human Rights Council, 6 March 2023 (https://www.ohchr.org/sites/default/files/2023-02/Annex1.-A-HRC-52-27_0.docx).

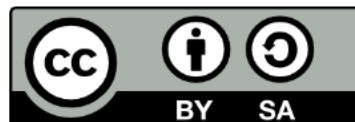
³⁹ #Faith4Rights toolkit (<https://www.ohchr.org/en/faith-for-rights/faith4rights-toolkit>).

⁴⁰ THE COUNCIL OF EUROPE'S FRAMEWORK Convention for the Protection of National



Initiative⁴² which called for the adoption of a set of legal acts to improve the protection of persons belonging to minorities and strengthen diversity in the Union. It argued against the adoption of any of the proposed legal acts or measures because, 'the full implementation of legislation and policies already in place provides a powerful arsenal to support the Initiative's goals'⁴³, even attempting to pre-emptively prevent the petition collection itself from being held altogether 10 years earlier, until ordered to desist in its attempts to block the petition drive by the European Court of Justice⁴⁴.

If the Europe Union is truly to be 'United in Diversity', then it must protect this diversity equally through clear and legally enforceable rights for religious or belief and other minorities, as it does already for other marginalise or vulnerable groups, including in the fight against racial discrimination and equality for women.



⁴² See generally <http://minority-safepack.eu/> - For the European Commission response, see also https://citizens-initiative.europa.eu/initiatives/details/2017/000004/minority-safepack-one-million-signatures-diversity-europe_en.

⁴³ *European Citizens' Initiative: European Commission replies to 'Minority Safepack' initiative*, 15 January 2021 (<https://europeansting.com/2021/01/15/european-citizens-initiative-european-commission-replies-to-minority-safepack-initiative/>).

⁴⁴ *Affaire T-646/13: Arrêt du Tribunal du 3 février 2017* (<https://op.europa.eu/fr/publication-detail/-/publication/89a41baf-0d39-11e7-8a35-01aa75ed71a1>).