



Rossella Bottoni

(Associate Professor of Law and Religion, Comparative Ecclesiastical Law,
and Introduction to Islamic Law, Faculty of Law, University of Trento)

Religious Minorities in States of Emergency: the UN Perspective *

*Le minoranze religiose negli Stati in stato di emergenza: la prospettiva delle Nazioni
Unite **

ABSTRACT: Emergencies can affect everybody in a given territory, but vulnerable groups are exposed to greater risks than the rest of the population. This contribution looks at the UN perspective concerning a specific vulnerable category, that is, religious minorities, in states of emergencies, by focusing on the Emergency Special Sessions of the General Assembly and on the Human Rights Council's Special Procedures.

ABSTRACT: Le emergenze possono colpire chiunque in un determinato territorio, ma i gruppi vulnerabili sono esposti a rischi maggiori rispetto al resto della popolazione. Questo contributo esamina la prospettiva delle Nazioni Unite riguardo a una specifica categoria vulnerabile, ovvero le minoranze religiose, in situazioni di emergenza, concentrandosi sulle sessioni speciali di

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emergenza dell'Assemblea Generale e sulle procedure speciali del Consiglio dei diritti umani.

SUMMARY: 1. Introduction - 2. Definitional Issues - 3. The General Assembly's Emergency Special Sessions - 4. The Human Rights Council's Special Procedures - 5. Concluding remarks.

1 - Introduction

Emergencies are “cultural constructs” based on a moral-oriented understanding of the bad things happening in the world, which require an ethical response in the name of a “common humanity”¹. This way of thinking is “a specific social imaginary”, which informs the work of international, nongovernmental, religious and other organizations². The United Nations (UN), as the largest international organization in world history having currently 193 Members States³, is inevitably concerned with emergencies. Although these can affect everybody on a given territory, vulnerable groups are exposed to greater risks than the rest of the population in such situations⁴.

This contribution focuses on the UN perspective concerning a specific vulnerable category - that is, religious minorities - in states of emergency. The latter expression refers broadly to any situation that can be defined as an emergency, and it should not be confined to the cases of declaration of a national emergency, when States derogate from constitutional and international obligations and suspend fundamental rights⁵. After addressing the issue of defining both ‘religious minorities’

¹ C. CALHOUN, *The Idea of Emergency: Humanitarian Action and Global (Dis)Order*, in *Contemporary States of Emergency: The Politics of Military and Humanitarian Interventions*, ed. by D. FASSIN, M. PANDOLFI (eds.), Zone Books, New York, 2010, p. 29.

² C. CALHOUN, *The Idea of Emergency*, cit., p. 30.

³ For a general introduction, see K.J. KILLE, A.J. LYON, *The United Nations: 75 years of promoting peace, human rights and development*, Bloomsbury Publishing, Santa Barbara, 2020.

⁴ S. BÉLA, *Humanitarian action to empower the most vulnerable social groups in disasters and complex emergencies*, in *Safety and Security Sciences Review*, 2020, 2/1, p. 62.

⁵ For a general treatment of this issue, see inter alia E.J. CRIDDLE (ed.), *Human Rights in Emergencies*, Cambridge University Press, Cambridge, 2016, in particular Part II; S. DARCY, *The Rights of Minorities in States of Emergency*, in *International Journal on Minority and Group Rights*, 2002, 9, pp. 345-369; R.B. LILLICH, *The Paris Minimum Standards of*



and 'emergency', attention will be paid to the Emergency Special Sessions of the General Assembly (GA) and the Human Rights Council's Special Procedures⁶.

2 - Definitional Issues

It is well known that the notion of 'minority' is debated⁷. This contribution will use the definition elaborated by the *Atlas of Religious or Belief Minority Rights*, according to which a religious (or belief) minority "is a group of people gathered in common membership who represent less than half of the population of a State and who are bound together by the intent to preserve and advance their religion or belief"⁸. This relies on a report of the Special Rapporteur on minority issues, who has stated that

"[a]n ethnic, religious or linguistic minority is any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language, or a combination of any of these. A person can freely belong to an ethnic, religious or linguistic

Human Rights Norms in a State of Emergency, in *The American Journal of International Law*, 1985, 79/4, pp. 1072-1081; A. ZWITTER, A. PRINS, H. PANNWITZ, *State of Emergency Mapping Database*. University of Groningen Faculty of Law Research Paper, 2014, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2428254.

⁶ For an analysis of other UN bodies and procedures concerned with the protection of human rights, including the right to freedom of religion or belief, see S. ANGELETTI, *Libertà religiosa e patto internazionale sui diritti civili e politici. La prassi del comitato per i diritti umani delle nazioni unite*, Giappichelli, Torino, 2008; S. ANGELETTI, *La libertà di coscienza e di religione di fronte al Comitato per i diritti umani delle Nazioni Unite: garantire i diritti individuali tra universalità e diversità*, in *Quaderni di diritto e politica ecclesiastica*, 2024, 1, pp. 343-370.

⁷ See inter alia D. FERRARI, *Il concetto di minoranza religiosa dal diritto internazionale al diritto europeo. Genesi, sviluppo e circolazione*, Bologna, il Mulino, 2020.

⁸ See <https://atlasminorityrights.eu/about/Methodology.php#>.



minority without any requirement of citizenship, residence, official recognition or any other status”⁹.

As concerns specifically religious minorities, the Recommendations of the Forum on Minority Issues has held that this expression

“encompasses a broad range of religious or belief communities, traditional and non-traditional, whether recognized by the State or not, including more recently established faith or belief groups, and large and small communities, that seek protection of their rights under minority rights standards”¹⁰.

The notion of ‘emergency’ is debated, too. In fact, there exists no generally accepted definition or classification of situations of emergencies, and this lack constitutes a significant challenge for scholars, public authorities and international organizations¹¹. An added difficulty is the use of qualifying adjectives, such as ‘humanitarian’, ‘complex’ and ‘major’ emergency¹². Last but not least, ‘emergency’ is used interchangeably with ‘crisis’ and ‘disaster’, but these can “mean three very different things”: for example, “[t]he sudden nature of these events and the damage caused are the common features of all three terms, even though emergency does not always have to be of a sudden nature”¹³.

The complexity of defining ‘emergency’ is reflected in the work carried out by the Inter-Agency Standing Committee (IASC), the

⁹ Report of the Special Rapporteur on minority issues, 15 July 2019, para. 53, <https://documents.un.org/doc/undoc/gen/n19/216/30/pdf/n1921630.pdf?token=9u8MROeEvaP3axA5gB&fe=true>.

¹⁰ Recommendations of the Forum on Minority Issues at its sixth session: *Guaranteeing the rights of religious minorities*, 26 and 27 November 2013, para. 8, <https://documents.un.org/doc/undoc/gen/g14/104/71/pdf/g1410471.pdf?token=Z5qL1eMQW GpEviasIv&fe=true>.

¹¹ D. MLADAN, V. CVETKOVIC, *Classification of emergency situations*, in *International Scientific Conference “Archibald Reiss Days. Proceedings. Volume III*, ed. by G. MILOŠEVIĆ, Academy of Criminalistic and Police Studies, Belgrade, 2013, p. 275.

¹² These adjectives may also be combined, for example ‘complex humanitarian emergencies’. See inter alia J. AUVINEN, E. W. NAFZIGER, *The Sources of Humanitarian Emergencies*, in *Journal of Conflict Resolution*, 1999, 43/3, pp. 267-290; D. KEEN, *Complex Emergencies*, Polity Press, Cambridge, 2008; R. VÄYRYNEN, *The Age of Humanitarian Emergencies*, The United Nations University-World Institute for Development Economic Research, Helsinki, 1996, <https://www.wider.unu.edu/publication/age-humanitarian-emergencies>.

¹³ H. AL-DAHASH, M. THAYAPARAN, U. KULATUNGA, *Understanding the*



highest-level and longest-standing forum of humanitarian coordination of the UN system, which was created by GA Resolution 46/182¹⁴. The task of coordinating organizations within and outside the UN has required to address this definitional issue¹⁵. This need has been made even more urgent by the increasing number of situations understood as states of emergency, due to religious extremism as well as ethnic rivalry, micro-nationalism, excessive population density, poverty, environmental crisis and economic exclusion and disempowerment¹⁶. The IASC Working Group has looked into the definitions of 'disaster', 'emergency' and 'complex emergencies' provided by the International Federation of Red Cross and Red Crescent Societies, the UN Development Programme (UNDP), the UN High Commissioner for Refugees (UNHCR), the UN Children's Fund (UNICEF), the World Health Organization (WHO) and the World Food Programme (WFP), each of which has its own definitions, based on their respective mandates. Only the UNDP and the WHO have adopted definitions for all the three terms. As concerns 'emergency', this is regarded respectively as an occurrence "when the dimensions of the disaster exceed the coping capacity of the affected community" (UNDP); any situation which threatens refugees' life or well-being "unless immediate and appropriate action is taken, and which demands an extraordinary response and exceptional measures" (UNHCR); a situation of human suffering and hardship due to events causing "physical loss or damage, social and/or economic disruption with which the country or community concerned is unable to fully cope alone", and consisting in a natural disaster with a high impact, as an earthquake, or a slow onset, as drought, or being the result of human actions, for example civil unrest or war (UNICEF); "a sudden occurrence demanding immediate action that may be due to epidemics, technological catastrophe, strife or to natural or man-made

terminologies: Disaster, crisis and emergency. Conference paper presented at the Association of Researchers in Construction Management (ARCOM), Manchester, 5-7 September 2016, p. 8, <https://openresearch.lsbu.ac.uk/item/872x5>.

¹⁴ See <https://interagencystandingcommittee.org>.

¹⁵ "We have wanted to find a pragmatic, specific and operational definition which would help the IASC to decide when emergencies require the nomination of a Humanitarian Coordinator" (IASC WORKING GROUP, *Definition of Complex Emergencies*, 16th Meeting, 30 November 1994, p. 2, <https://interagencystandingcommittee.org/content/definition-complex-emergency>).

¹⁶ IASC WORKING GROUP, *Definition of Complex Emergencies*, cit., p. 1.



causes” (WHO), or yet an urgent situation where “a demonstrably abnormal event” has occurred “which causes human suffering or loss of livestock”, “which produces dislocation in the life of a community on an exceptional scale” and “which the government concerned has not the means to remedy” (WFP)¹⁷.

All such definitions are based on a collective dimension going well beyond one or more minority communities sharing a religion or belief. This explains why the UN hardly considers religious minorities as specific or exclusive targets in emergencies. Generally speaking, religious minorities are taken into account as vulnerable groups disproportionately affected by emergencies, as it has been dramatically proved by the recent COVID-19 pandemic¹⁸. In this perspective, the belonging to a minority religion or belief can be considered alone or as an intersecting identity concurring with other multiple factors in making

¹⁷ IASC WORKING GROUP, *Definition of Complex Emergencies*, cit., pp. 5-7.

¹⁸ R. BOTTONI, *Implications of the COVID-19 pandemic for religious minorities from the UN perspective*, in *International Journal for Religious Freedom*, 2023, 16/1, pp. 3-18. For a general treatment, see F. BALSAMO, D. TARANTINO (eds.), *Law, Religion and the Spread of COVID-19 Pandemic*. DiReSom Papers no. 2, 2020, <https://diresom.net/2020/11/07/law-religion-and-the-spread-of-covid-19-pandemic-ebook-diresom-papers-2>; P. CONSORTI, (ed.), *Law, Religion and Covid-19 Emergency*. DiReSom Papers no. 1, 2020, <https://diresom.net/2020/05/07/diresom-papers-1-ebook-law-religion-and-covid-19-emergency>; G. A. DU PLESSIS, *COVID-19 and Limitations to the International Right to Freedom of Religion or Belief*, in *Journal of Church and State*, 2021, 63/4, pp. 619-647; Eurac Research Webinar Briefs. *Minorities and COVID-19*, 2021, <http://bit.ly/3Iuvmu7>; A. MADERA (ed.), *The Crisis of Religious Freedom in the Age of COVID-19 Pandemic*, MDPI, Basel, 2021; J. MARTÍNEZ TORRÓN, B. RODRIGO LARA (eds.), *COVID-19 y libertad religiosa*, Iustel, Madrid, 2021.



a group marginalized, such as ethnic identity, gender, minor age and so on¹⁹.

3 - The General Assembly's Emergency Special Sessions

Among the six Charter-based organs²⁰, the GA is the most interesting one for present purposes. It is the "pre-eminent global deliberative body" and

"the only one of the six that includes representatives of all member states, simultaneously respecting and confirming their sovereign equality by giving each of them one vote, regardless of military power, wealth, population, size of territory, or any other characteristic"²¹.

However, it has not been transferred any legislative authority by Member States, and its non-binding resolutions have been overshadowed by the Security Council (SC) and a number of global summits and conferences²². There are nevertheless situations of emergency when the GA can be seen as exercising some additional authority: in the event of a deadlock in the SC, due to one of its members'

¹⁹ J. ALLOUCHE, H. HOFFLER, J. LIND, *Humanitarianism and Religious Inequalities: Addressing a Blind Spot*. CREDI Working Paper, 2020, pp. 8-11, <https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/15718>.

²⁰ The UN Charter, signed in San Francisco on 26 June 1945, has established six "principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat" (Art. 7(1)). Text available at <https://www.un.org/en/about-us/un-charter/full-text>.

²¹ M. J. PETERSON, *The UN General Assembly*, Routledge, London, 2006, p. 1.

²² M. J. PETERSON, *The UN General Assembly*, cit., pp. 1-7. On the positive contribution of this resolution, see N. DIRIKGIL, *Revisiting the Content of United Nations General Assembly Resolutions in Shaping and Expanding the International Legal Content of Humanitarian Assistance*, in *Public and Private International Law Bulletin*, 2023, 43/2, pp. 681-714.



(ab)use of the veto power, the GA can convene an Emergency Special Session (ESS)²³.

This procedure relies on the so-called *Uniting for Peace* resolution, adopted on 3 November 1950 amidst the Korean crisis and affirming that

“if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations”²⁴.

The adoption of this resolution was regarded as “the most momentous action ever taken” by the GA, which was made possible by the SC’s “organic imbecility”²⁵.

Eleven ESSs have been called up to now²⁶, and some of them have been reconvened over time. Perhaps unsurprisingly, six have concerned

²³ M. J. PETERSON, *The UN General Assembly*, cit., p. 6.

²⁴ The text of Resolution 377A(V) is available at [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F377%2520\(V\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F377%2520(V)&Language=E&DeviceType=Desktop&LangRequested=False).

²⁵ L. H. WOOLSEY, *The “Uniting for Peace” Resolution of the United Nations*, in *The American Journal of International Law*, 1951, 45/1, p. 129. See also K. S. PETERSEN, *The Uses of the Uniting for Peace Resolution since 1950*, in *International Organization*, 1959, 13/2, pp. 219-232; UN NEWS, *Explainer: What is a UN General Assembly emergency special session and why it matters*, 27 October 2023, <https://news.un.org/en/story/2023/10/1142922>.

²⁶ 1st ESS on Suez (1956); 2nd ESS on Hungary (1956); 3rd ESS on Lebanon (1958); 4th ESS on the Democratic Republic of the Congo (1960); 5th ESS on the Middle East (1967); 6th ESS on Afghanistan (1980); 7th ESS on Palestine (1980, reconvened in 1982); 8th ESS on Namibia (1981); 9th ESS on the Occupied Arab Territories (Golan Heights) (1982); 10th ESS on the illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory (1997, reconvened in 2009, 2017, 2018, 2023 (twice) and 2024); 11th ESS on Ukraine (2022, reconvened later in 2022 and 2023). See



the Near East. Overall, the most relevant ones for present purposes are the 5th²⁷, the 7th²⁸ and the 10th²⁹ ESSs on the Israel-Palestine Question, and the 11th on Ukraine³⁰.

The delegates' interventions in the 5th and 7th ESSs can be divided into three groups, according to whether they refer 1) only indirectly to Christians and Muslims, 2) explicitly to them, and 3) exclusively to Muslims or Islam, omitting any mention of Christians.

The starting point of this review can be the statement of Mr. Terzi (Palestine Liberation Organization):

“[t]he exercise of the veto by a permanent member of the Security Council is nowhere challenged in the resolution [...]. The resolution does condemn the misuse of the veto. [...]. The policy of threats and intimidation is not exercised by those who sponsored or voted in favour of the resolution. It is exercised only by those who massacre *our people*, who violate and desecrate our *religions*, who supply the

<https://research.un.org/en/docs/ga/quick/emergency>. All the delegates' statements quoted in this paragraph can be retrieved from the same website

²⁷ The 5th ESS was requested by the Soviet Union «to consider the question of liquidating the consequences of Israeli aggression against the Arab States and the immediate withdrawal of Israel troops behind the armistice lines» (*Letter dated 13 June 1967 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General*).

²⁸ The 7th ESS was requested by Senegal “[h]aving in mind the escalating tension brought about by the events that have occurred in the area during the intervening period, which further aggravate the already existing serious threat to international peace and security” (*Letter dated 1 June 1980 from the Permanent Representative of Senegal to the United Nations addressed to the Secretary-General*).

²⁹ The 10th ESS was requested by Qatar, in the light of “the dangerous situation resulting from the illegal Israeli actions in the occupied Palestinian territory, including Jerusalem, in particular the commencement of the construction of the Jabal Abu Ghneim settlement to the south of occupied East Jerusalem, and other measures regarding Jerusalem and the building of settlements”, and given the belief of the States members of the League of Arab States “that the illegal Israeli measures in question represent a threat to international peace and security as undermining the Middle East peace process” (*Letter dated 31 March 1997 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General*).

³⁰ This was called on the basis of Resolution 2623 (2022) adopted by the SC at its 8980th meeting, on 27 February 2022, to examine the question raised by the Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the UN addressed to the President of the SC, and concerning “the deterioration of the situation in the Autonomous Republic of the Crimea, Ukraine, which threatens the territorial integrity of Ukraine”.



forces of occupation and encourage them to persist in committing acts of aggression and crimes”³¹.

Indirect references to Christians and Muslims can be found in relation to the contested legal status of Jerusalem. Mr. Pirzada (Pakistan) considered “the paramount importance attached to the question [of Jerusalem] by the faithful of *the great world religions*”³². Likewise, Mr. Kamanda Wa Kamanda (Zaire) stressed the need to respect “the character and international status of the city of Jerusalem as a Holy Place of the *three great monotheistic revealed religions of the world*” and to reject “any unilateral actions and measures to annex or alter its geographic, demographic and cultural characteristics”³³. Other references are more diluted, as in the case of Mr. Beaulieu (Canada) who, while affirming his own country’s opposition to “any precipitate action which might prejudice the preservation of the special spiritual and religious interests in Jerusalem”³⁴, stated:

“the future of Jerusalem and the protection of the Holy Places are a matter of special concern to all Members of the United Nations and [...] this Organization has a legitimate interest in any step which is taken, an interest deriving both from the profound importance of Jerusalem to many countries and *religious communities* and from the

³¹ 7th ESS, Provisional verbatim record of the 21st meeting, 30 April 1982, p. 23. Along the same lines is Sierra Leonean delegate’s statement, which condemns Israel’s actions by which it has “indulged in the destruction and desecration of Arab religious and cultural centres in the occupied territories” (7th ESS, Provisional verbatim record of the 20th meeting, 29 April 1982, p. 41).

³² 5th ESS, Official proceedings of the 1548th plenary meeting, 4 July 1967, para. 146. The italics is mine.

³³ 7th ESS, Provisional verbatim record of the 20th meeting, 29 April 1982, cit., pp. 34-35. The italics is mine. For a general introduction to this issue, see **M. L. DI MARCO**, *The legal status of Jerusalem in the State of Israel*, in *Stato, Chiese e pluralismo confessionale*, Rivista telematica (<https://www.statoechiese.it>), 2018, 27, pp. 1-12.

³⁴ 5th ESS, Official proceedings of the 1554th plenary meeting, 14 July 1967, para. 36.



historic responsibility of this Organization for measures on behalf of peace in this region”³⁵.

The delegates’ statements, as could be expected, are often characterized by geopolitical considerations. Mr. Gurinovich (Belarus) noted that the United States and other Western countries

“have spoken at length about the Holy Places in Jerusalem and about access to them, playing on the religious feelings of believers. But why do not the Western countries condemn Israel which, by its aggression, has created this problem and which, to the accompaniment of their utterances, has already enacted “laws” providing for the annexation of Jerusalem?”³⁶.

The second group of interventions is characterized by specific mentions of Christians and Muslims. Recurring arguments are the need to preserve the religious interests of all the parties concerned and the call for the right of all faithful to accede to their Holy Places³⁷. Mr. Devendra (Nepal) called for “the rights of all peoples belonging to the Judaic, Christian and Islamic faiths to free and unrestricted access to their Holy Places”³⁸. Likewise, Mr. Vraalsen (Norway) confirmed his government’s position: “A comprehensive solution must guarantee free access to the Holy Places in Jerusalem, for Jews, Christians and Moslems alike”³⁹. Related outrageous actions are also condemned, as in the case of Mr. Pelletier (Canada): “My Government join the general feeling of revulsion at the tragic loss of life and desecration of that most holy site, as it condemns any disrespect for the Holy Places, be they Christian, Moslem or Jewish”⁴⁰.

Some delegates reiterated the special interest of the three Abrahamic religions in Jerusalem⁴¹ and underlined the need for a

³⁵ 5th ESS, Official proceedings of the 1554th plenary meeting, cit., para. 38. The italics is mine.

³⁶ Official proceedings of the 1548th meeting, cit., para. 16.

³⁷ For a general introduction, see **P. PIERACCINI**, *Gerusalemme, luoghi santi e comunità religiose nella politica internazionale*, Edizioni Dehoniane, Bologna, 1996.

³⁸ 5th ESS, Official proceedings of the 1554th meeting, cit., para. 84.

³⁹ 7th ESS, Provisional verbatim record of the 20th meeting, cit., p. 7.

⁴⁰ 7th ESS, Provisional verbatim record of the 20th meeting, cit., p. 57.

⁴¹ “If we bear in mind Jerusalem’s importance for the faithful of the three monotheistic revealed religions, this appeal is merely in keeping with the aspirations of



consultation with the respective religious leaders⁴². For example, Mr. Illueca (Panama) expressed the hope «that the three religious communities which are so important to mankind - Christian, Jewish and Moslem - will be able to work together, united by the traditions of their monotheistic faith, to decide the future of Jerusalem»⁴³.

The third group of interventions consists in exclusive mentions of Muslims or Islam, with the omission of any reference to Christians. In some cases, these are reactions to specific incidents. In the words of Mr. Kasemsri (Thailand) “[t]he violation on 11 April 1982 of the sanctity of one of Islam’s holiest shrines has caused outrage throughout the world”⁴⁴. Likewise, Mr. Kirca (Turkey) blamed “the senseless attack on the Holy Places of Islam in Jerusalem”⁴⁵. In other cases, internal and external policy considerations seem to be the main reason for the lesser concern about Christians. This appears to be the case with the statement of Mr. Eban (Israel), unrelated to the previous ones but nevertheless taking into account the context of the tensions with Muslim Palestinians:

“We have a deep and respectful concern of Moslems for their Holy Places. It goes without saying that the custody of the Moslem Holy

believers, whether they be Moslem, Christian or Jewish” (Mr. Sarre (Senegal), 7th ESS, Provisional verbatim record of the 20th meeting, cit., p. 3).

⁴² Mr. Goldberg (USA) recalled a statement made by the White House on 28 June 1967: “The President said on 19 June that in our view ‘there must be adequate recognition of the special interest of three great religions in the Holy Places of Jerusalem.’ On this principle, he assumes that before any unilateral action is taken on the status of Jerusalem, there will be appropriate consultation with religious leaders and others who are deeply concerned. Jerusalem is holy to Christians, to Jews, and to Moslems. It is one of the great continuing tragedies of history that a city which is so much the centre of man’s highest values has also been, over and over, a centre of conflict. Repeatedly the passionate beliefs of one element have led to exclusion or unfairness for others. It has been so, unfortunately, in the last, twenty years” (5th ESS, Official proceedings of the 1554th meeting, cit., para. 96). Cf. also Mr. Pirzada (Pakistan): “The Holy City of Jerusalem commands the deepest spiritual allegiance of millions of people in all continents. Its fate during and since the recent hostilities has, therefore, caused the deepest anguish in the Islamic and Christian worlds and among the more responsible elements of Judaism” (official proceedings of the 1548th meeting, cit., para. 145).

⁴³ 7th ESS, Provisional verbatim record of the 11th meeting, 30 July 1980, p. 31. In this process, respect – as a tool for dialogue among religions – has a paramount role. See **M. D’ARIENZO**, *Il rispetto come strumento di dialogo tra culture e religioni*, in *Diritto e Religioni*, 2020, 2, pp. 330-336.

⁴⁴ 7th ESS, Provisional verbatim record of the 20th meeting, cit., p. 53.

⁴⁵ 7th ESS, Provisional verbatim record of the 21st meeting, cit., p. 23.



Places in Jerusalem should be in the hands of authoritative representatives of Islam, with free access fully ensured for all Moslems. Accordingly, we shall welcome consultations with Moslem representatives in the vicinity of our country and throughout the world”⁴⁶.

The same applies to the rhetorical statement by Mr. Baleta (Albania) praising “[t]he valiant people of Palestine, the Arab peoples and all the Moslem peoples of the Middle East suffering from aggression and occupation by the Zionists, imperialists or social-imperialists”⁴⁷. Albania is a Muslim-majority State, but this position does not seem to be justified by the commonality of faith, but rather by the ideological divide in the cold war.

A novelty may be found in the debate in the 10th ESS: in some statements Christian and Muslim communities are still expressly mentioned, but - unlike previous ESSs - without any mention of Judaism. In this way, they are finally treated as religious minorities, and no longer as part of the broader category of Abrahamic or world religions. It is noteworthy that all such references come from speeches of delegates of Muslim-majority countries. Wehbe (Syrian Arab Republic) denounced the «assaults by the Israeli authorities on the rights of Christian and Muslim Arabs in East Jerusalem, which has been occupied since 1967»⁴⁸. Mr. Hamdoon (Iraq) condemned «the flagrant Israeli violations of the Council’s resolutions and of the sensibilities and sacred places of the Muslim and Christian worlds»⁴⁹. Mr. Eltinay (Sudan) called on

«the United Nations to put pressure on Israel to lift its siege of the city and allow Muslim and Christian Palestinian citizens to practise

⁴⁶ 5th ESS, Official proceedings of the 1554th meeting, cit., para. 75.

⁴⁷ 7th ESS, Provisional verbatim record of the 24th meeting, 29 June 1982, pp. 52-53.

⁴⁸ 10th ESS, Official records of the 3rd plenary meeting, 25 April 1997, p. 9. Mr. Erwa (Sudan) referred to “the falseness of Israeli claims on the question of sovereignty over Jerusalem, which is vitally important to all Palestinians and all Arabs, Christians and Muslims” (10th ESS, Official records of the 14th meeting, 20 October 2000, p. 47). As regards the US decision of 6 December 2017 on the status of Jerusalem, Mr. Alyemany (Yemen) rejected “all attempts to change the historic and legal status of the Islamic and Christian holy sites in the city” (10th ESS, Official records of the 37th meeting, 21 December 2017, p. 2).

⁴⁹ 10th ESS, Official records of the 3rd plenary meeting, cit., p. 13. Likewise, Mr. Muntasser (Libya) mentioned Israel’s “aggression against the Christian and Islamic holy places” (10th ESS, Official records of the 5th plenary meeting, 15 July 1997, p. 12).



their religions. [...]. As an occupying Power, Israel must respect the Fourth Geneva Convention, whose provisions apply to Jerusalem, which is a Holy City for Muslims and Christians»⁵⁰.

Finally, with regard to the 11th ESS on Ukraine⁵¹, religion-related references do not actually point at the situation affecting that country, but are used to reinforce the speakers' arguments on problems existing elsewhere. In the 14th plenary meeting of 12 October 2022, where draft resolution A/ES-11/L.5 on *Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations* was voted, Pakistan abstained. The reasons were explained by the country's two delegates as follows. Mr. Akram expressed full support "for respect for the principle of the sovereignty and territorial integrity of States", but this applies not only to Ukraine but also to any other Member State. Therefore, Pakistan looked

"forward to seeing similar concern about and condemnation of the attempts by India to formalize its illegal annexation of the internationally recognized disputed territory of Jammu and Kashmir, illegally occupied by India in complete violation of international law and relevant resolutions of the Security Council on Jammu and Kashmir"⁵².

Mr. Sarwani addressed specifically the situation of India's Muslims.

"Today India is being guided by the Hindutva ideology, which has mainstreamed Islamophobia and bigotry against minorities, particularly Muslims, in its political discourse. In today's incredibly

⁵⁰ 10th ESS, Official records of the 3rd plenary meeting, cit., p. 11.

⁵¹ For an introduction to the issue of the relationship between religion and the conflict, see **R. BOTTONI**, *La questione dell'autocefalia della Chiesa ucraina: dimensioni religiose e geopolitiche del conflitto intra-ortodosso*, in *Quaderni di diritto e politica ecclesiastica*, 2019, 2, pp. 281-316; **G. CIMBALO**, *Il ruolo sottaciuto delle Chiese nel conflitto russo-ucraino*, in *Diritto e religioni*, 2021, 2, pp. 485-510; **G. CODEVILLA**, *L'invasione dell'Ucraina da parte della Federazione Russa e la posizione delle Chiese*, in *Il Diritto ecclesiastico*, 2022, 1-2, pp. 21-52; **A. FABBRI**, *Lo scontro geopolitico e teologico in atto nel mondo ortodosso. Alla ricerca di un filetismo ecclesiologicamente attenuato?*, in *Il Diritto ecclesiastico*, 2023, 1-2, pp. 101-122; **V. PARLATO**, *L'autocefalia della chiesa ortodossa ucraina, interpretazioni dottrinali e strutture ecclesiali a confronto*, in *Stato, Chiese e pluralismo confessionale*, Rivista telematica (<https://www.statoechiese.it>), 2019, 7, pp. 1-16.

⁵² 10th ESS, Official records of the 14th plenary meeting, 12 October 2022, p. 14.



intolerant India, 200 Muslim minorities face frequent lynching by vigilantes, pogroms by the Rashtriya Swayamsevak Sangh with official complicity, discriminatory citizenship laws to disenfranchise Muslims and a concerted campaign to destroy mosques and the rich Muslim heritage of India. Pakistan has been highlighting and will continue to highlight those issues and India's State terrorism against the people of Jammu and Kashmir, illegally occupied by India"⁵³.

These statements can be contrasted to those of Mr. Beresford-Hill (Sovereign Order of Malta), recalling "the apolitical and neutral aid that we offer, without consideration of religion or politics", to reach out all "those who are left behind": "the forgotten people of our world, often stateless, homeless, the trafficked, the migrant and refugees"⁵⁴.

Overall, it can be seen that the GA may address any emergency situation, but its political nature inevitably leads Member States to prioritize those revolving around specific geopolitical interests and identity or ideological concerns. This also impacts on its effectiveness⁵⁵.

4 - The Human Rights Council's Special Procedures

UN Secretary-General Kofi Annan has defined the Human Rights Council's Special Procedures as "the crown jewel" of its system of human rights protection and promotion⁵⁶. They are independent experts on human rights who have a 3-year (renewable) mandate to report and advise on a specific theme (this is the case of Thematic Special Rapporteurs, Thematic Independent Experts and Thematic Working Groups) or country (with Country-specific Special Rapporteurs and Country-specific Independent Experts). As of November 2024, there are

⁵³ 10th ESS, Official records of the 14th plenary meeting, cit., p. 20. On India's legal developments in the light of the Hindutva ideology, see inter alia **F. ALICINO**, *L'India alla luce di due vicende legislative. Il Muslim Women (Protection of Rights on Marriage) Act 2019 e il Citizenship (Amendment) Act 2019*, in *Quaderni di diritto e politica ecclesiastica*, 2020, 2, pp. 495-509.

⁵⁴ 10th ESS, Official records of the 14th plenary meeting, cit., p. 7.

⁵⁵ As noted inter alia by **G. ALFREDSSON**, **E. FERRER**, **K. RAMSAY**, *Minority Rights: A Guide to United Nations Procedures and Institutions*, 2004, p. 7, <https://minorityrights.org/app/uploads/2024/03/minorityrightsguideunprocedures.pdf>.

⁵⁶ *Message to the 3rd session of the Human Rights Council*, 29 November 2006, <https://press.un.org/en/2006/sgsm10769.doc.htm>.



14 country and 46 thematic mandates⁵⁷. There has been an increase in their number since the creation of the Human Rights Council in 2006, when they were only 41. On the one side, their independence is a guarantee of objectivity and impartiality but, on the other, their proliferation has raised serious

“questions of whether they strengthen human rights protection and promotion through increasing awareness and widening the scope of topics to be included under the umbrella of human rights, or if expansion weakens the system by diluting core rights, reducing resources available to mandate holders, and providing a smokescreen for states seeking to avoid scrutiny of their record on fundamental human rights”⁵⁸.

Among the Special Procedures, the Special Rapporteur on freedom of religion or belief, whose mandate was established in 1986 and extended in 2022, deserves a special mention⁵⁹. Numerous annual thematic reports have been published, and they do contain broad statements on the effects of emergencies on the enjoyment of the right in question⁶⁰, but the references to religious minorities are scarce. Moreover, these are narrowly considered in proper states of emergency, rather than in more general situations of crisis and disaster. One example is the single sentence contained in the report on countering Islamophobia/anti-Muslim hatred to eliminate discrimination and intolerance based on religion or belief published, on 13 April 2021: “[i]n the United States, civil society has expressed concern that Presidential emergency powers have

⁵⁷ See <https://www.ohchr.org/en/special-procedures-human-rights-council>. See also A. NOLAN, R. FREEDMAN, T. MURPHY (eds.), *The United Nations Special Procedures System*, Brill, Leiden, 2017.

⁵⁸ R. FREEDMAN, J. MCHANGAMA, *Expanding or Diluting Human Rights?: The Proliferation of United Nations Special Procedures Mandates*, in *Human Rights Quarterly*, 2016, 38/1, p. 165.

⁵⁹ See <https://www.ohchr.org/en/special-procedures/sr-religion-or-belief>.

⁶⁰ See for example the report on *Freedom of religion or belief* of 18 July 2024: “pursuant to article 4 of the International Covenant on Civil and Political Rights, freedom of religion or belief cannot be subject to derogation, even in situations of national emergency, and [...] freedom of religion or belief and security are “complementary, interdependent and mutually reinforcing objectives that can and must be advanced together”.” (para. 44). Text available at <https://documents.un.org/doc/undoc/gen/n24/213/78/pdf/n2421378.pdf>.



a broad scope and have been used to disproportionately target Muslims and their organizations without due process”⁶¹.

The same approach emerges in the annual thematic reports of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while counteracting terrorism, whose mandate was established in 2005 and extended in 2022⁶². The report of 1 March 2018 on the challenge of states of emergency in the context of countering terrorism reads: “when counter-terrorism law functions as emergency law, States must pay particular attention to the disproportionate effect of exceptional powers on ethnic minorities, vulnerable groups, and religious minorities”⁶³.

It is worth noting that special procedures were in place also under the Commission on Human Rights⁶⁴, set up in 1946 by the Economic and Social Council under Art. 68 of the UN Charter⁶⁵, and replaced in 2006 by the Human Rights Council⁶⁶. The Commission created subsidiaries bodies, as the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1947, renamed Sub-Commission on the Promotion and Protection of Human Rights in 1999, which in turn established the Special Rapporteur on human rights and states of emergencies (1985-1997). The related documentation highlights the definitional difficulties, which were referred to also at the beginning of this contribution, and reveals the ambition to include also de facto emergencies and not only those formally proclaimed⁶⁷. The annual

⁶¹ Para. 30, <https://documents.un.org/doc/undoc/gen/g21/086/49/pdf/g2108649.pdf>.

⁶² See <https://www.ohchr.org/en/special-procedures/sr-terrorism>.

⁶³ Para. 80, <https://documents.un.org/doc/undoc/gen/g18/054/36/pdf/g1805436.pdf>.

⁶⁴ See **H. JR. TOLLEY**, *The U.N. Commission on Human Rights*, Westview Press, Boulder, 1987.

⁶⁵ “The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions”.

⁶⁶ See **M. KOTHARI**, *From Commission to the Council: Evolution of UN Charter Bodies*, in D. SHELTON (ed.), *The Oxford Handbook of International Human Rights Law*, Oxford University Press, Oxford, 2013, pp. 587-620. It is, like its predecessor, a Charter-based party, because it was established on the basis of provisions contained in the UN Charter and it was created through a resolution by the GA whose authority derives from the same charter.

⁶⁷ **J. FITZPATRICK**, *Human Rights in Crisis. The International System for Protecting Rights During States of Emergencies*, University of Pennsylvania Press, Philadelphia, 1994, pp. 168-173. See also **L. DESPOUY** (Special Rapporteur on Human Rights and States of Emergency), *Explanatory paper on the best way of undertaking the drawing up and*



reports, while focusing on the administration of justice and the human rights of detainees, referred the increase in conflicts relating to minorities or derived from religious (among other) factors and called for the need to protect vulnerable groups, such as minorities⁶⁸.

5 - Concluding remarks

Within the UN, religious minorities are hardly considered specific or exclusive targets in emergencies. They are one of the vulnerable groups disproportionately affected in such situations, which originate from a great variety of causes, from anti-terrorism legislation to displacement. Several reasons may explain the limited focus on the belonging to a minority religion. One is the tendency to see it as an intersecting identity concurring with other multiple factors (ethnic identity, gender, language, minor age and so on) in making a group marginalized, as in the case of Palestinian Muslims. Another one is the negative effect of geopolitical considerations, which lead to pay lesser attention for example to Christians in Palestine as compared to their Muslim counterpart, or to Catholics in Ukraine due to the relevance of the intra-Orthodox tensions in the conflict. Furthermore, some scholars blame the humanitarian actors' 'religion-blind' policy: the "limited engagement with religious identity" may be partly "due to (mis)interpretations of humanitarian principles of neutrality and universality and widespread assumptions held about religion as non-essential or divisive"⁶⁹.

The consequence is the little effectiveness in protecting religious minorities in states of emergencies - a conclusion which may be placed in the context of the broader criticism that the UN attracts, on the on

updating of a list of countries which proclaim or terminate a state of emergency each year, and the submission of an annual report to the Commission on Human Rights containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency, 17 June 1985, <https://digitallibrary.un.org/record/88681?v=pdf>.

⁶⁸ See for example *Tenth annual report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency*, 23 June 1997, paras. 143-144 and 173, <https://digitallibrary.un.org/record/241137?ln=en&v=pdf>.

⁶⁹ V. AVIS, *Challenges religious minorities face in accessing humanitarian assistance*, 14 October 2019, <https://reliefweb.int/report/world/challenges-religious-minorities-face-accessing-humanitarian-assistance>.



hand, for its inadequate presence or response to emergencies⁷⁰ and, on the other hand, for its poor record in the protection of religious freedom⁷¹.



⁷⁰ **C. EZEIBE**, *United Nations Response to Emergency Situations: A Comparative Study of Africa and North America*, in *University of Nigeria Journal of Political Economy*, 2009, 3/1-2, pp. 167-180; **S. CHESTERMAN**, *UNaccountable? The United Nations, Emergency Powers, and the Rule of Law*, in *Vanderbilt Journal of Transnational Law*, 2009, 42, pp. 1509-1541. On constraints and desirable changes, see inter alia **R. C. KENT**, *The United Nations' Humanitarian Pillar: Refocusing the UN's Disaster and Emergency Roles and Responsibilities*, in *Disasters*, 2004, 28/2, pp. 216-233; **F. SPIELBERG**, *Humanitarian Response to Emergency, Risk and Disaster: a Recent History of Lessons Learnt from a United Nations perspective*, in *Noroi. Environnement, aménagement, société*, 2019, 251, pp. 119-125.

⁷¹ **M. G. FISCHER**, *The UN's Failure to Promote and Protect Religious Freedom*, 2017 (<https://adfinternational.org/resource/the-unsfailure-to-promote-and-protect-religious-freedom/>).