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RELIGIOUS MINORITY RIGHTS

Christopher Buck

Islam is experiencing an identity crisis that has precipitated a world crisis. Radical

Islamists are in the news almost every day, yet Westerners are taught that radical

Islamism is not “true Islam.” Islam, we are told, means peace, yet that public identity

is typically not reflected in the social mirror of the popular press. Every time a suicide

bomb is detonated, the image of a peaceful Islam is exploded along with it. In the

popular mind, Islam is as Islam does. Another yardstick by which Islamic claims to a

peaceful authenticity are measured is the treatment of religious minorities within an

Islamic state. Both Islamic and Western states, generally, claim to respect human

rights, within the context of Islamic and democratic ideals, respectively. A Western

nation-state’s identity as a democracy will be measured not only against its own

democratic ideals, but against an emerging body of international human rights law.

Whether by national or international standards, the acid test of democracy is its

treatment of minorities. The same holds true for Islamic states. For all of the rhetoric

professing Islam’s respect for human rights, human wrongs within the modern Muslim world must still be addressed, even if not redressed.

Not all religious minorities within predominantly Muslim countries are treated

similarly. Comparatively speaking, Jewish and Christian minorities typically fare better than other minority faith-communities within Muslim societies functioning under Islamic law. But certain minority religions within Islamic states have experienced hardships of such proportions as to attract the attention of the international community. This chapter briefly looks at the Alevis, the Ahmadiyya, and the Bahá'ís and argues that Islamic majoritarian treatment of minorities – who are a problem for the majority because they hold unwelcome beliefs – reveals much about the real nature of particular claims to Islamic authenticity. This chapter also suggests that Islamic identity and praxis must now withstand the scrutiny of the international community – a relatively new situation that certainly did not exist when Islam was the world's superpower during the so-called Dark Ages of Europe. Inevitably, Islamic law will be measured against international law, and will increasingly be constrained by it. More importantly, in the twenty-first century, the legal “right” of minority religions to an identity may be as important as the “truth” of their respective identities. The cosmopolitanism of human rights requires the right to an identity of a minority where that identity stands in tension with the identity of the majority.

Three of the most controversial religious minorities within the Islamic world will be examined in their respective socio-historical contexts: the Alevis in Turkey, the

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Ahmadiyya in Pakistan, the Bahá'ís of Iran. These three faith-communities provide ideal subjects for a comparative study of the identities of religious minorities within the modern Muslim world. In an increasingly globalized world, Islamic identity is ultimately a legal as well as a religious issue. Characterizing the Ahmadiyya and the “Bahá'í Faith” as “Islamic minorities” is problematic in itself, as

the Ahmadis profess themselves as Muslims while the Bahá'ís do not. Indeed, the distinctive identity of the Bahá'í Faith as an independent world religion is universally upheld by the Bahá'í scriptures, authorities, and adherents themselves, while the adamant Islamic identity of the Ahmadiyya is universally upheld by the Ahmadiyya writings, authorities, and adherents with equal vigor. Where the self-identity of each of these two religious minorities is at issue within a given Islamic state offers a case-study in terms of Islamic claims to authenticity.

So, what is Islamic identity? More to the point is this question: Can an Islamic state tolerate a religious minority that has an alternative Islamic identity (as in the case of the Alevis), a rival Islamic identity (as in the case of the Ahmadiyya), or a post-Islamic identity (as in the case of the Bahá'ís)? The resolution of these vexed questions depends on which lens is used as a frame and focus. Here, the choice of the frame-work of analysis is critical, for it will largely determine the outcome. This study employs a three-faceted inquiry. The identities of religious minorities within Islamic states implicates 1) etic (outsider/majoritarian), 2) emic (insider/minority), and 3) international perspectives. Together, these three perspectives operate as a prism that works its own ideological optics, refracting claims to Islamic identity and breaking those claims into their constituent colors – the spectral measure of which is the treatment of religious minorities in an Islamic state.

Thus, this chapter explores Islamic and non-Islamic identities from multiple perspectives – external, internal, and international. External identity represents the perspective of dominant Islamic authorities. Internal identity emanates from the perspective of the faith-community itself. International opinion regarding the identity of both religious minorities and the majority of a given Islamic state is best viewed from

the perspective of international human rights standards. In trying to make sense of all three vantage points, the connections between how Islamic authorities characterize certain religious minorities and how they treat them with respect to fundamental human rights will be explored. It is critical, then, to be clear throughout which perspective is being presented.

Islam, which has core beliefs and practices, lacks a central authority. Long before the abolition of the caliphate by Kemal Atatürk on March 2, 1924, the caliph had largely been a figurehead since 1258. Even before, the caliph was never a universal authority in Islam. Doctrinally, core Islamic beliefs and praxis were never reduced to a single creed or code. Sociologically, within the Muslim world, not only is the range of ethnicities, languages, and cultural traditions rich and variegated, there is a surprising range of Islamic identities as well. Ultimately, Islamic identity is as plural as it is plastic. Norms define and boundaries confine. These boundaries are in flux; they are as perceptual as they are conceptual. Whatever normative “Islam” is supposed to be is constantly being negotiated and renegotiated. As might be expected, Muslim questions surrounding the alternatively Islamic, rival Islamic, or post-Islamic identities of religious minorities within Islamic nation-states are vexing for Islamic orthodoxies.

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The very notion of an Islamic “orthodoxy” is itself problematic. The concept is so theologically freighted that to speak of an Islamic orthodoxy begs the question. Heterodoxy is anything that departs from orthodoxy – that is, any belief that varies significantly from the perspective of the religious majority and is therefore objectionable to the dominant religion. Strictly speaking, notions of “orthodoxy” and “heterodoxy” are simply social realities. Here, and purely as a term of convenience,

by Islamic “orthodoxy” we mean any establishment of “official” or “mainstream” Islam that, by dint of its dominance, has coercive power to render the existence of minor-ities problematic where such groups hold unwelcome beliefs. In pluralist societies committed to freedom of religion, even the religious majority has no coercive power over the religious minorities. But in a state where a particular formulation of “correct” Islamic belief is maintained and enforced, the existence of religious minorities whose beliefs and practices differ from the normative majoritarian position often tests the limits of the dominant religious leadership, which may have recourse in using the state’s apparatus to suppress and, in some cases, to oppress a minority, with the goal of eventually marginalizing it out of existence.

Simply put, the Alevi are patently heterodox by normative Islamic standards, while the Ahmadiyya and the Bahá’ís are doubly heterodox due to their post-Islamic claims to revelation. All three of these groups are considered heterodox by their respective orthodox Sunni (and Shi’i) majorities. This is particularly problematic under shari’ah law, which can theoretically accommodate non-Muslim minorities with some degree of egalitarianism, if not quasi-equality, but only if they fit within a prescribed religious framework. A religious minority that fits within that framework is afforded a degree of protection. This is the case with Christians and Jews – “Peoples of the Book” – who enjoy, in theory at least, recognition and protection within an explicit Qur’anic framework. Zoroastrians, Hindus, and other religious communities – such as the cluster of disparate groups that fell under the Qur’anic rubric of Sabians – have historically gained a certain measure of toleration within Islamic states as well.

But a religious minority within an Islamic state that does not fit within that framework (such as the Alevi, the Ahmadiyya, and the Bahá’ís) is not afforded such pro-

tection. That is where the international human rights regime can, on a case-by-case basis, intervene – and does so with increasing frequency. Under shari " a regimes in the past, the Alevi have, for the most part, historically adopted strategies of survival by secrecy, until secularization from within intervened, as in the case of modern Turkey, to secure their status as legally protected minorities. In the case of the Ahmadiyya in Pakistan and the Bahá ! ís of Iran, the legal regimes of their respective countries bar full recognition and rights, leaving secularization – in the form of international law – as an ameliorative and constraining force. In so saying, this is not to suggest that religious minorities will fare better to the extent that Islamic governments abandon shari " a regimes. Yet some adjustment has to be advocated. While implementation of the International Covenant on Civil and Political Rights (discussed further in this chapter) will require such adjustments, it does not oblige the secularization of Islamic states. The paradox of being heterodox is this: how can a religious minority either maintain its Islamic identity (as in the case of the Ahmadiyya) or maintain its independent, post-Islamic identity (as in the case of the Bahá ! ís) where a dominant Islamic orthodoxy categorically rejects such self-defined identities as illicit, invalid, and illegal?

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Simply put, the quasi-Islamic identity of the Alevi, the rival (revivalist) Islamic identity of the Ahmadiyya and the post-Islamic (independent) identity of the Bahá ! ís all offend orthodox Islamic identities. These affronts – these offenses – while unintended, are variously taken as a real threat to traditional Islamic identities. Times change, and so do Islamic identities. The Alevi have been branded in the past as heretics – and in 2007 as “pagans” for their musical religious ceremonies and liberal customs – but now enjoy a relative degree of state support in Turkey. More significantly, the Alevi constitute the ruling elite in present-day Syria

(where they are known as Alawis). But the Ahmadiyya and the Bahá'ís are generally regarded as apostates. As will be seen, given the clash of religious identities within in the modern Muslim world, secularization is often superior to shari'a law in integrating religious minorities having quasi-Islamic, rival Islamic, and post-Islamic identities. Minorities are defined by majorities (unless the minority is a ruling elite, as with the Alawis). Even an Islamic democracy may fail to equalize rights in a Muslim state. The modern Muslim Middle East demonstrates, time and again, that information management in the hands of a majority determines social policy and overrides the self-identity of the minorities. In Pakistan, for instance, the Ahmadis profess to be Muslims, while Pakistani law strips the Ahmadiyya community of the right to manifest its Islamic identity. To cite another instance, the Bahá'ís of Iran consider themselves to be an independent faith-community, while the Iranian regime is intransigent in its refusal to permit the Bahá'ís to practice their religion. Thus, the same group may have two distinct (even contradictory) identities: that defined by the prevailing Muslim majority, and that maintained by the minority group. Not only do these power disparities create formidable obstacles for scholarship in understanding these identities (especially in negotiating a middle ground between anti-minority polemics and pro-minority apologetics), they obviously pose problems for the minorities themselves. Muslim majorities strenuously maintain that the rights of religious minorities are respected in an Islamic state. To varying degrees, this may be true, so long as those minorities do not pose any threat (real or perceived) to Islam. Put in different words, the way that Islamic minorities are treated within the Islamic world depends, to a large degree, on how the religious identities of these minorities are defined by the Islamic states in which they live. This, in turn, can lead to judgments about claims

regarding Islamic identity by the surrounding, largely secular world. To make matters worse, controversies within the modern Muslim world ignite controversies outside that world. While majority norms define Islamic identity within Muslim states, minority norms define Western valuations of those same Islamic identities. Clashes within the Muslim world exacerbate the clashes without. Social historian P. R. Kumaraswamy (2003: 244) notes that “discussions on minorities have often been controversial and politically loaded.” States typically resent and resist “any outside criticisms over their treatment of their minority population and consider it to be a sovereign and inviolable subject.” Yet, as Kumaraswamy observes, “they do not hesitate to use the treatment of minorities by their adversaries as a useful foreign policy instrument.” In other words, minority issues within Muslim states are lightning rods for criticism by foreign states.

Not everything that affects the body politic is political in the sense that Kumaraswamy asserts. For instance, at a White House news briefing on March 28, 2006, a

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spokesman expressed President Bush’s concern over worsening situation of the Bahá’ís in Iran. While such human rights concerns inform the policy of the USA, they are not determinative of it. Here, we see a triangulation of tensions between various Islamic orthodoxies, their constituent Islamic heterodoxies, and universal normative values, collectively defined by the human rights canons of international law, to which many Islamic states are signatories as well. There is a large body of literature on whether or not the human rights standards of international law represent Western values or universal values, and the view that they are Western is often advanced as an excuse for noncompliance. Thus there are three competing sets of Islamic identities that act and react on any given religious minority in an Islamic state and these sets of identities will be examined here with the three groups in question: (1) the Alevis in Turkey, (2) the

Ahmadi-

yya in Pakistan, and (3) the Bahá'ís in Iran. Of these three nations, Pakistan and Iran have been designated “countries of particular concern,” “for ongoing, egregious violations of religious freedom” by the United States Commission on International Religious Freedom (2005). To label any Islamic state as a “country of particular concern” necessarily entails the interface of three identities: (1) the perceived identity of that religious minority within the broader framework of the group identity of the dominant Islamic majority; (2) the self-identity of the religious minority within an Islamic state; and (3) judgments made by the international community regarding these plural – and problematic – identities. A religious minority has its own moral compass and religious laws. These, in turn, are constrained by the overarching authority of the Islamic majority which, in turn, is constrained, at least in principle, under international law. Thus, concentric identities are layered within local, national, and international contexts that act and react on each other.

Outsider-majority views

The Alevis in Turkey

In 2002 the Alevis of Turkey numbered some twelve to fifteen million, comprising an estimated 20 to 25 percent of the total Anatolian population. The Turkish Alevis form a distinct religious and quasi-ethnic group. Alevis are the second most numerous ethno-religious minority of republican Turkey. The vast majority of Alevis are ethnic and linguistic Turks, although about 20 per cent of Alevis are Kurds, equal to about 25 per cent of the total Kurdish population of Turkey. Alevis live primarily in Eastern Turkey or Anatolia (the part of Turkey that lies in Asia). Severely persecuted during Ottoman rule, Alevis adopted secrecy as a survival strategy, and so practiced dissimulation (taqiyya). Although Alevis have a distinct genealogy going back to early Shi'ite history, some of the outward identifiers of being Muslim – whether in the orthodox Sunni or Shi'ite sense – are missing. For instance,

Alevis do not observe the fast of Ramadan. Instead, they fast for 12 days during the month of Muharram. Neither do they perform their obligatory prayers five times daily, as Muslims are required to do. Nor do they make the pilgrimage to Mecca. The fact that fasting, prayer, and pilgrimage – three of the five “pillars of Islam” – are conspicuously absent raises serious questions about the identity of Alevis as Muslims.

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The Alevis have reemerged in the past two decades as a largely secular, democratic community both in Turkey and in Europe. More important is Alevi identity in relation to what has been termed the “Turkish-Islam” synthesis that aims to transform inter-communal conflict into a sense of greater, particular Turkish, unity. Poyraz (2005: 512) argues that “the Turkish State uses the Alevis as a form of insurance against those who oppose secularism.” The Turkish state has found an ally in the Alevis, who have proved useful as a bulwark against the encroachment of ultra-conservative Muslim clerics. But there is a more practical, immediate reason for recognizing the minority rights of Alevis, as Sahin explains: “Since the global discourse of identity as right has been accepted by the EU, Turkey is forced to promulgate laws to recognize its religious and ethnic minorities” (2005: 467). The question of the Islamic identity of the Alevi minority entails, in a positive form, an active state interest – an interest that we will see in the case of the Ahmadiyya of Pakistan and the Bahá'ís of Iran, but manifest in decidedly negative and oppressive ways in those instances.

The Ahmadiyya in Pakistan

The Ahmadiyya is a worldwide community, with Hazrat Mirza Tahir Ahmad as its Supreme Head. The Ahmadiyya have around four million adherents in Pakistan (Khan 2003: 218). Perhaps the most well-known Ahmadi of recent times is Sir Muhammad Zafrullah Khan (d. 1986), former president of the International Court of Justice, Pakistan's first foreign minister, a translator of the Qur'an

and paternal grand-
father of Ahmadi author Amjad Mahmood Khan, a 2004 graduate of Harvard Law School, who has published a legal analysis of the plight of the Pakistani Ahmadiyya in Harvard Human Rights Journal (2003). In his article, Khan presents the official Islamic perspective of the government of Pakistan, of the Ahmadiyya community in Pakistan, and the international human rights regime. Khan notes that, in 1974, the orthodox Sunni Muslim "ulama" successfully pressured then-Prime Minister Zulfikar Ali Bhutto to declare Ahmadis as non-Muslims. Accordingly, Bhutto oversaw the introduction into Pakistan's parliament of Articles 260(3)(a) and (b), defining the term "Muslim" in the Pakistani context and excluding groups that were, legally speaking, deemed to be non-Muslim. Effective as of September 6, 1974, this constitutional amendment explicitly stripped Ahmadis of their identity as Muslims. In 1984, the Government added Section 298(c) to its Penal Code, a section commonly referred to as the "anti-Ahmadi law." Used by the government and anti-Ahmadi religious groups to target and harass Ahmadis, the section prohibits Ahmadis from calling themselves Muslims or posing as Muslims, from referring to their faith as Islam, from preaching or propagating their faith, from inviting others to accept the Ahmadi faith, and from insulting the religious feelings of recognized Sunni Muslims. The vague wording of the provision that forbids Ahmadis from "directly or indirectly" posing as Muslims has enabled mainstream Muslim religious leaders to bring charges against Ahmadis for using the standard Muslim greeting form and for naming their children Muhammad. The constitutionality of Section 298(c) was upheld in a split-decision Supreme Court case in 1996. The punishment for violation of the section is imprisonment for up to three years and a fine. This "excommunication" of the Ahmadiyya as Muslims by force of law was a clear extension of the hegemony that orthodox Muslim clerics wielded. Divesting the

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Pakistani Ahmadiyya community of its Islamic identity was followed by legal entrenchment of the anti-blasphemy provisions in Pakistan's Penal Code. These provisions are systematically aimed at the eradication of every vestige of Islamic identity that the Ahmadiyya possessed. It is apparent that the Ahmadis in general are caught on the horns of a dilemma: while the Ahmadiyya see themselves as authentic Muslims, the theocratic force of Pakistani law endangers any visible manifestation of that identity. Here, the prevailing Islamic orthodoxy has, through the instrumentality of state law, legally barred the Ahmadiyya from openly practicing their faith as professed Muslims.

The Bahá'í in Iran

The identity of the Bahá'í Faith is that of an independent world religion, and not as a sub-group within Islam. Given the longstanding, nearly universal and legally binding recognition of the independent status of the Faith worldwide, this is not merely a matter of internal Bahá'í claims versus those of certain Islamic authorities. However obvious this may be to the Bahá'í themselves, the Iranian authorities have a contrary view based on Islamic doctrine that bars any religion from legitimately appearing after the time of Muhammad. Absolutely fundamental to Islamic identity is the finality of Muhammad, whom the Qur'an dignifies as the "seal of the prophets" (Qur'an 33:40) and thus the last of the prophets. Therefore it is an utter impossibility, from the strictly Muslim point of view, for any prophet to appear after Muhammad. Since the Bahá'í Faith was established in the nineteenth century, its truth-claims are automatically rejected because of the doctrine of the finality of Muhammad's prophethood (Buck 1995: 191–8; Buck 2007). The idea that the Bahá'í Faith is a sect of Islam could brook no tolerance by Muslim authorities. This sectarian notion of Bahá'í origins is primarily a Western mischaracterization. The notion that the Bahá'í Faith has an Islamic identity and is

an “Islamic minority” would, unless carefully contextualized, lend support to a pernicious misrepresentation of the Bahá'í Faith which is, after all, more aptly characterized as simply a religious minority within any given Islamic state. Simply put, the Bahá'í Faith has Iranian Islamic origins, and thus a great deal of continuity with Shi'ite Islam, yet emerged as an entirely independent religion, replete with its own scriptures, laws, and identity. In a word, the Bahá'í Faith is the daughter religion of Islam in much the same way as Christianity sprang from Judaism. In this respect, both Christianity and the Bahá'í Faith are secondary monotheisms, arising out of primary monotheisms. Although historically derivative, they are independent. The Islamic Republic of Iran professes its support of human rights, arguing that Islam has long been the promoter and protector of human rights far in advance of Western secular formulations. Ironically, some of the United Nations human rights language has made its way into the Constitution of the Islamic Republic of Iran. Outlining the “General Principles” of the Constitution, Article 13 states: “Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education.” Members of these three religions are considered by Iranian clerics to be “People of the Book” and are therefore accorded Qur'anic protection. The effect of

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this provision is to deny Bahá'ís their freedom of religion. Bahá'ís are considered apostates, and their blood may be shed with impunity, perhaps even with clerical approval. The vocabulary of human rights, which has been used in the Iranian Constitution, does not carry the universal application characteristic of international law. Elsewhere

in the Constitution, under the rubric, “The Rights of the People,” Article 20 adds:

“All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.” Clearly, the Bahá'ís do not conform to these legal criteria.

While the Iranian government has not denied that Bahá'ís are citizens of Iran, they do not enjoy equal rights.

In the years immediately following the 1979 Iranian revolution, clerics ordered the arbitrary arrest of Bahá'ís and the torture and execution of over 200 of them

(particularly members of Bahá'í administrative bodies, sometimes with demands that their families pay for the bullets used to kill them). Other actions taken against

Bahá'ís include confiscation of property, seizure of bank assets, expulsion from

schools and universities, denial of employment, cancellation of pensions (with demands that the government be reimbursed for past pension payments), desecration

and destruction of Bahá'í cemeteries and holy places, criminalizing Bahá'í activities

and thus forcing the dissolution of Bahá'í administration, and pronouncing Bahá'í

marriages as illegal acts of prostitution. In addition, there were relentless propaganda

campaigns aimed at inflaming anti-Bahá'í passions to instigate mob violence and

crimes against Bahá'ís. There are many documented instances of this state-instigated

incitement to violence (see Ghanea 2002; Buck 2003). This phase of the anti-Bahá'í

campaign has aptly been described as “civil death” – a cultural cleansing that collec-

tively affects a community estimated to be 300,000 Iranians.

After 1985, with Iran having been scandalized for its violation of the rights of

Bahá'ís and other religious minorities, the number of executions of Bahá'ís sharply

dropped, and, in 1987 and 1988, most of the Bahá'ís being held in prison were

released. While this may imply that improved treatment of Bahá'ís in Iran was due to

the international attention focused on the issue, the cause of the improvement

is not known and thus it should not be assumed that international pressure was a decisive factor. Yet there is more direct evidence of the efficacy of diplomatic recourse in partially restoring rights to education. In the early 1980s, a proportionally large number of Bahá'í children – probably most, but not all – had been expelled from public and private schools in Iran. But international pressure caused that policy to be rescinded, and, in the late 1980s, the Iranian regime adopted a new policy of concealment. This shift in anti-Bahá'í tactics masked a new and insidious strategy formalized in a secret 1991 memorandum from the Iranian Supreme Revolutionary Cultural Council on “the Bahá'í question.” This document surfaced in 1993, first appearing in the report by Special Representative Reynaldo Galindo Pohl to the UN Commission on Human Rights. The policy recommendations of this document are still in force. Personally endorsed by Ayatollah Ali Khamenei on February 25, 1991 and written by Dr. Seyyed Mohammad Golpaygani, secretary of the Supreme Revolutionary Cultural Council, this document advises government officials, among other things, to expel Bahá'ís from universities, “once it becomes known that they are Bahá'ís.” It further states: “Deny them employment if they identify themselves as

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Bahá'ís.” “Deny them any position of influence.” The policy effectively denies Bahá'ís the right to higher education, a policy that had already been in effect since 1980. No Bahá'í can, in practice, attend university in Iran. As a result, Bahá'ís have organized the Bahá'í Institute for Higher Education (BIHE), popularly known as “Bahá'í Open University.” The Bahá'í International Community reports that Iranian Bahá'ís seeking to enter Iran's vocational and technical institutes are effectively barred from admission for the 2007–8 academic year, since the 2007 form for the entrance examination indicates that only one box may be marked for religion. Applicants are given three

choices to self-identity as religious minorities – Zoroastrian, Jewish, or Christian. If none of these boxes is marked, the applicant will be considered Muslim. This is unacceptable to Bahá'ís as tantamount to a de facto denial of their faith. As disturbing as this surely is to human rights advocates, it is not surprising. Bahá'ís are typically denied full freedom of religion throughout many states in the Muslim Middle East. There are two principal reasons for this: 1) Bahá'ís lack dhimmi (protected) status and are therefore excluded from Qur'anic protection; and 2) the Bahá'í Faith is a post-Islamic religion – a theoretical impossibility considering Muhammad's ontological status as the “seal of the prophets.” Apart from the day of judgment, Islam cannot conceive of a post-Islamic act of revelation, much less theologially tolerate a post-Islamic claim to revelation.

Insider-minority perspectives

The Alevis in Turkey
“Alevi” means “of Ali” and thus comes to mean “follower of Ali.” Alevis revere Ali ibn Abi Talib (d. 661). Thus they have been called the “Deifiers of Ali.” This reflects Ali's exalted station in Alevi theology. While Alevis claim a distinct identity, it is one that neither conflicts with Turkish national identity nor is inimical to the Turkish state. That identity kept at bay the threat of Alevi fusion into the Sunni majority.

According to David Zeidan:

The resurgence of Sunni fundamentalism that began in the 1950s and has recently grown much stronger also pushed the Alevis to the political left. Many Alevis reacted by stressing their separate identity and reinterpreting Alevism in socialist and Marxist idiom that seemed to have an affinity to Alevi ideals of equality and traditions of revolt.
(Zeidan 1999:77)

That “revolt” has gone full circle in Turkey, where the Alevi minority now enjoys the blessings of the moderate Sunni majority. The Alevi question became one answer to countering the threat of Islamic fundamentalism in Turkey, where the former

“Deifiers of " Ali” are now the reifiers of Turkish secularism.

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The Ahmadiyya in Pakistan

The insider perspective is clear: Ahmadis consider themselves to be Muslims and observe Islamic practices. According to Khan (2003: 218, n. 4), the Ahmadiyya are

self-professed Muslims, and their claim to Muslim self-identity is valid and should be

immune from exclusion by a Sunni majority under the following rationale. As followers

of the prophetic restorationist and messianic claimant, Mirza Ghulam Ahmad (d. 1908) of Qadian, India, the Ahmadiyya profess what they consider to be the “true

spirit” of Islam. They see their beliefs and practices as the restoration of pristine

Islam. An orthodoxy may well define what and who is heterodox. But the arrow can

quickly fly back at the archer, when one considers that orthodoxy and heresy are fluid

notions that entail power relations. The irony is this: the Ahmadiyya, in their view,

practice a more authentic form of Islam – one that is purified from 14 centuries of

accretion. According to Pakistani authorities, the Ahmadiyya do have the freedom to

practice their religion – but not as Muslims. So, while “might” makes “right” when

the Sunni orthodoxy in Pakistan proscribes the Ahmadiyya practice of the same

religion under penalty of law, international religious human rights advocates see this

as a clear breach of religious freedom.

The Bahá'í in Iran

What kind of Islamic identity do Bahá'í have? Are Bahá'í, for instance, Muslims?

The simple answer is no, since the Bahá'í Faith is an independent world religion.

Bahá'í do not, in fact, profess to be Muslim, although they recognize the divine

station of Muhammad. Because of the Islamic origins of their Faith, however, Bahá'í

have much in common with Muslims. What distinguishes the Bahá'í Faith from Islam

is the revelation of Bahá'u'lláh (d. 1892), the socio-moral principles of which marked

a major “paradigm shift” in what may be characterized as a paradigm of unity.

Explaining the relationship of the Bahá'í Faith to Islam raises the larger Bahá'í concept of “Progressive Revelation.” Although the Faith has a close historical link with Islam, Bahá'í self-identity is intrinsically and intimately related to all of the world's great religions. Islam is seen as a major event in a series of decisive historical moments when great spiritual teachers appeared to catalyze the course of social evolution through renewed spiritual teachings and new social laws. To invoke the Western term, these Prophets are both “forth-tellers” (the literal meaning of the Greek prophetes) as well as foretellers. Each communicated a present message and future “prophecy.” Prophecies converged in presaging the advent of Bahá'u'lláh, a world-messiah whose principles and spiritual influence would bring about world unity. As “World-Reformer,” Bahá'u'lláh advocated world peace, parliamentary democracy, disarmament, an international language, harmony of science and religion, interfaith concord, gender and racial equality. From a historicist perspective, in precocious anticipation of a global society, Bahá'u'lláh's signal contribution was to sacralize certain secular modernist reforms, integrated within an irreducibly original paradigm of world unity in which peace is made sacred. From an emic perspective, Bahá'u'lláh's principles have a divine origin and, if carried out, promise the social salvation of society. Designating his son " Abdu'l-Bahá (d. 1921) as interpreter, exemplar and successor, and by ordaining the eventual formation of elected councils, Bahá'u'lláh instituted

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his Covenant as the organizing principle of the Bahá'í community and guarantor of its integrity, safeguarding against major schism. Succeeding " Abdu'l-Bahá in 1921 as “Guardian” of the Bahá'í Faith, Shoghi Effendi (d. 1957) globalized and evolved

Bahá'í administration as a system of Local and National Spiritual Assemblies, leading to the election of The Universal House of Justice in 1963, the international Bahá'í governing body, established on Mount Carmel in Haifa, Israel.

While Islamic sensitivities need to be respected, many would argue that they do not outweigh human rights considerations. Ironically, secular values can sometimes be more universal than religious ones. Consequently, in a clash of religious value systems, international law may be the only practical arbiter until the conflict is resolved.

In the case of Iranian Islam, there is a considerable distance between the constitutional rhetoric of respect for minority rights and the prevailing sociopolitical reality.

As a direct result of Iran's treatment of its Bahá'í minority, the ultimate injury-in-fact is refractory damage to the reputation of Islam in the eyes of a critical public that uncritically tends to see Islam as monolithic. By the yardstick of minority rights, Iran's efforts to preserve Islamic values have arguably had the effect of perverting them.

International perspectives

International law exerts external pressures on a given country. Religious human rights (i.e., freedom of religion) are a subset of human rights. Human rights watchers monitor inequitable legal/policy restrictions on religious minorities by governments in response to perceived religious threats. In 1998, the USA enacted the International Religious Freedom Act, making religious freedom a feature of its foreign policy. Passed by the Senate on October 9, 1998 and unanimously approved by the House by voice vote on the following day, President Clinton signed the International Religious Freedom Act of 1998 (IRFA) into law on October 27, 1998. That Act established an independent and bipartisan advisory Commission on International Religious Freedom, an office in the State Department, an Ambassador-at-Large for International Religious Freedom,

and
an Annual Report on International Religious Freedom. The President, moreover,
is
required to take defined actions against states that violate religious freedom.
Human rights standards encoded as international law serve as the secular norm
for
religious rights. Discrimination as to religion or belief is condemned and this
proscrip-
tion against religious discrimination is an essential feature of the United
Nations
human rights charters. Several instruments of international law have been
adopted –
with varying force of law – to protect freedom of religion. They are: 1)
Article 1(3)
and 13 of the United Nations Charter; 2) Articles 1, 2, 18, Universal
Declaration of
Human Rights (adopted December 10, 1948, GA Res. 217, UN Doc. A/810, 71); 3)
Article 2, Convention on the Prevention and Punishment of the Crime of Genocide
(1948); 4) Articles 2, 18, 26 and 27 of the International Covenant on Civil and
Political Rights [ICCPR] (adopted 1966 and effective March 23, 1976) (see
pp. 654–5) Declaration on the Elimination of All Forms of Religious
Intolerance
and of Discrimination Based on Religion or Belief (adopted November 25, 1981);
6)
UN Declaration on the Rights of Persons Belonging to National or Ethnic,
Religious
and Linguistic Minorities (1992); and 7) Article 14, Convention on the Rights
of the
Child. Their language is strong but their enforcement is weak. This problem is

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nowhere better illustrated than in the unresolved problems affecting the Bahá
!ís of
Iran and the Ahmadiyya in Pakistan.
Article 18 of the ICCPR protects the right to “freedom of thought, conscience
and
religion” and the “freedom to have or to adopt a religion or belief” of
one’s choice.
Article 18 is concerned only with one’s right to profess and practice one’s
belief and
not at all concerned with the “truth” of one’s religious identity. Thus,
what inter-
national law requires of Islamic states is not that they recognize religions
per se, but
that they recognize fundamental religious human rights. Of the instruments
cited
above, this article is the most directly applicable, legally binding provision

on religious freedom. These complex distinctions among international covenants and conventions, however, are not decisive in and of themselves. In clarifying the legal distinction between international law and non-binding instruments, it should not be implied that the critical distinction is the legal status of the instrument (convention versus declaration), but rather the process of ratification by state parties. While international religious human rights law is evolving, it remains for member states to implement it.

Laws of religious freedom in Pakistan and Iran are vitiated by countervailing laws against Ahmadis and policies against Bahá'ís respectively. Technically, there are no "laws against" the Bahá'ís in Iran, but rather a lack of legal protection due to silence in the Iranian Constitution. Government action against Bahá'ís has been mandated not by laws but by government orders and instructions. While such laws, policies and directives may incorporate human rights language as a ringing endorsement of international covenants in theory, they may ring as a hollow echo in actual practice. Various United Nations resolutions have condemned these laws and their practices. Examples, where relevant, will be provided below.

The Alevis in Turkey

Turkey, of course, must satisfy the Copenhagen criteria in order to join the European Union, and this will act, in concert with Turkish secularism and the force of international law, as a further constraint against any reflex of repression. According to the International Religious Freedom Report 2005 released by the Bureau of Democracy, Human Rights, and Labor, the Alevis have experienced relatively minor and isolated incidents of discrimination (US Department of State 2005a). Given the increasingly ideal Turkish state relations in recent support of the Alevi community as a bulwark against the perceived and real threat of radical Islam, however, these problems

affecting the Alevi in Turkey are likely to resolve themselves.

The Ahmadiyya in Pakistan

According to the same International Religious Freedom Report 2005 released by the Bureau of Democracy, Human Rights, and Labor, the situation of the Ahmadiyya

is far most serious in terms of religious human rights concerns (US Department of

State 2005b). Critics of Pakistan's anti-Ahmadi laws point out that Ordinance XX of

Pakistan's Penal Code violates Article 18 of the ICCPR, under its provisions that "no

one shall be subject to coercion which would impair his freedom to have or to adopt a

religion or belief of his own choice." This analysis is borne out by United Nations

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Resolution 1985/21. Under this analysis, international law is more concerned with

the "right" of the Ahmadiyya to profess and practice Islam rather than with the

"truth" of their Islamic identity. There are distinct advantages that will accrue if

international law is more effectively enforced.

The Bahá'í in Iran

In addition to the situation reported above, other recent actions in Iran against the

Bahá'í community have been brought to light by the United Nations. On December

16, 2005, the United Nations General Assembly passed a resolution decrying human

rights violations in Iran, citing

escalation and increased frequency of discrimination and other human rights violations against the Bahá'í, including cases of arbitrary arrest and deten-

tion, the denial of freedom of religion or of publicly carrying out communal affairs, the disregard of property rights, the destruction of sites of religious

importance, the suspension of social, educational and community-related activities and the denial of access to higher education, employment, pensions, adequate housing and other benefits.

(Bahá'í World 2005)

The Iranian Bahá'í have long been persecuted for their religious faith.

Persecution

entails a systematic policy of discrimination by a religious majority on the

basis of heterodox beliefs of the oppressed minority. The International Religious Freedom Report 2005 released by the Bureau of Democracy, Human Rights, and Labor specifies these human rights violations (US Department of State 2005c). This may partly be a symptom of a larger problem: Mohamed Eltayeb, an expert in the human rights field, points out that, in the aftermath of the 1979 revolution, a number of Muslim countries attempted “to construct alternative ‘Islamic’ human rights instruments,” which, however, “have fallen far below the international standards” (cited in Buck 2003: 91–2).

The Bahá'í question is exacerbated by one particular problem in current international human rights standards: the UN's Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief has yet to be raised to the level of an international convention, even though UN declarations on the elimination of racial discrimination and discrimination against women have already been codified as international law (Buck 2003: 91). At issue here is the difference between a declaration and a convention in the context of international law. The reason a convention takes the force of international law is that it operates as a multilateral treaty. The fact that the UN Declaration is an aspirational document and not law is not inherently a problem with respect to protecting the Bahá'ís in Iran, as Iran is already a party to the ICCPR and is thus bound by its Article 18. This is not to say that if the provisions of the Declaration became binding they would not be helpful, but Article 18 already requires Iran to protect the essential religious rights of the Bahá'ís.

Protection of the Bahá'ís in Iran (or of any religious minority anywhere), as a matter of international law, does not depend on recognition of the religion by the

state government. Because of the religious identity of some Islamic governments, they could never, and could never be expected to, recognize the Bahá'í Faith as an independent religion. However, they can and they must be expected to permit all individuals to “have or to adopt a religion or belief of his choice” and “either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching” (International Covenant on Civil and Political Rights [ICCPR], art. 18). Thus the Bahá'ís are not seeking from the Iranian government a formal recognition of the independent identity of the Faith but rather the right to believe and to practice. The distinction may be fine, yet religious rights have a clear priority over religious recognition. The Bahá'í religion need not be “recognized,” but the religious rights of the Bahá'ís must be recognized. From the fact that various Islamic states and institutions have attempted to replicate international human rights language into their respective constitutions and legal codes, one may observe – and even predict – that international religious human rights will exert increasing pressures on Islamic regimes found to be in violation of international norms, to which most Islamic states are signatories and by which they are legally bound.

Conclusion

It has been shown that the Islamic identities of Islamic minorities are largely a matter of perspective. Where the legitimacy and rights of a controversial religious minority within an Islamic state are both in question and in peril, the interplay of what might be termed a “standpoint epistemology” must be taken into consideration. Like truth and beauty, Islamic orthodoxy is in the eyes of the beholder. More importantly, Islamic authenticity is in the hands of the powerful. Only the pressure of international human rights standards has the universal and even-handed potential needed to con-

strain Islamicate power-brokers from repressing their relatively powerless minorities. Many in the field of international human rights feel that the Islamic world is the part of the international community least accepting of the international human rights regime. Clearly, what is needed is acceptance of international human rights laws, both in the enlightened self-interests of Islamic authorities, as well as in the interests of the religious minorities under their governance. Religious minorities that hold unwelcome beliefs within Islamic states – such as the Alevis of Turkey, the Ahmadiyya in Pakistan, and the Bahá'ís of Iran – continue to pose a challenge to the Islamic identity of its entrenched orthodoxies. This challenge is affrontive, not confrontive. A test case in Egypt has recently drawn international attention: an Egyptian Bahá'í couple requested the Department of Passports and Immigration to add the names of their daughters to their passports. The department refused to return their passports and withdrew their ID cards – arguably in violation of their legal rights guaranteed by the Constitution of Egypt and the Universal Declaration of Human Rights. On April 4, 2006, a lower administrative court ruled that “[i]t is not inconsistent with Islamic tenets to mention the religion on this card even though it may be a religion whose rites are not recognized for open practice, such as Bahá'ism and the like.” The Egyptian government has appealed this ruling. On December 16, 2006, the Supreme Administrative Court issued its final judgment in the case of Husam Izzat Musa and Ranya Enayat Rushdy, upholding the government’s policy of allowing only

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affiliations of the three officially recognized religions – Judaism, Christianity, and Islam – on state ID cards and government documents. This ruling sets Egypt’s religious human rights standards against international standards. However, on 31 March 2008, Egypt’s official national newspaper, Al-Akhbar (“The News”), announced that Egypt’s government-appointed National Council for Human Rights

has just released its fourth annual report, recommending, inter alia, that the government allow the entry of “Bahá'í” as one of the choices in the religion field on official identity cards. Time will tell whether this recommendation will herald the dawn of a new era in the eventual freedom of oppressed religious minorities in Islamic states.

These and other recent events have reinforced the importance of sustained pressure by the international community on Islamic authorities to conform to international human rights standards. Accordingly, this chapter is not only about the identities of the minorities in emic, etic, and international perspectives, but about the perceived threat posed to the identity of the ruling majority, both by the existence of these minorities and by the requirements of international law that they be protected.

International law bears on the right to choose and to practice a religion or belief. The right to religion as currently incorporated in international law is an individual right, not a group right, and is independent of the view of any state or people or even the international community itself as to the identity, nature or value of the belief or religion.

What this has to do with the “identity” of a religious group is where Islamic states deny individual rights by denying group rights. In mustering the political will of states to advocate through international bodies and otherwise for the protection of the rights of members of a religious group, the political realities of efforts to implement human rights norms are challenging.

Since Islamic authorities are facing increasing pressure under international religious human rights law to allow religious minorities to maintain their own self-identities – whether as self-professed Muslims (as the Ahmadiyya maintain), or as self-professed religionists with a distinct identity separate from Muslims (as the Bahá'ís maintain), a full Islamicization of secular religious human rights standards is perhaps the most

formidable challenge of all.

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INTERNATIONAL COVENANT ON
CIVIL AND POLITICAL RIGHTS

Adopted and opened for signature, ratification
and accession by General Assembly resolution
2200A (XXI) of 16 December 1966
entry into force 23 March 1976, in accordance
with Article 49

Article 4

1 In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation,

provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2 No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3 Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 18

1 Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his

choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2 No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3 Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4 The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

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Article 26

All persons are equal before the law and are entitled without any discrimination

to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against

discrimination on any ground such as race, colour, sex, language, religion, political

or other opinion, national or social origin, property, birth or other

status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Source: http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

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