

**Mapping Anti-Muslim Hatred and Its Impact on Freedom of Religion or Belief**

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**Introduction**

Violations of the right to freedom of religion and belief are increasing globally in scale, depth and blatancy. Carried out by both government and non-state actors, they range from obstructive (e.g. administrative restrictions) to extreme (e.g. genocide). Muslims are a diverse mix of ethnicities, religious and theological affiliations, philosophical beliefs, political persuasions, secular tendencies, languages and cultural traditions. Globally, however, trends indicate that Muslim individuals and communities are suffering increased human rights violations on the grounds of their religious identity. From discrimination and violent exchanges, the destruction of mosques and properties, gender-based violence and forced sterilization, to arbitrary detention, the human rights impacts of anti-Muslim hatred are manifold and are in need of urgent action. Tackling discrimination and intolerance on the grounds of religious belief is also essential to reducing social, economic and political division and conflict worldwide.

The following report seeks to document anti-Muslim hatred in several jurisdictions where Muslim communities are experiencing severe repressions and human rights violations due to their religious beliefs. The jurisdictions in focus of this report are China, the European Union, exemplified by three Member States, India, Iraq, Myanmar, Pakistan and Palestine. The report identifies how hate crime, discrimination and religious intolerance faced by Muslim communities in these jurisdictions have negative implications on their right to freedom of religion or belief. It explores different drivers underlying anti-Muslim hatred, such as the impact of structural variables (state-religion relationships, legal framework and the rule of law, democratic deficits), contingent variables (politicisation of religion) and other types of underlying variables (patriarchy, societal integration and religious traditions). The report incorporates a gender perspective by exploring how anti-Muslim hatred impacts gender equality rights in these regions.

This report first offers a definition of Islamophobia by analysing different approaches proposed by academics, the UN system and relevant organisations. It then turns to the above-mentioned jurisdictions, outlining the demographic landscape, legal framework, implementation of law and the manifestations of anti-Muslim hatred in each of them. Finally, the report proposes recommendations on how states should be addressing Islamophobia.

**Draft Definition of Islamophobia**

Prior to submitting a definition of ‘Islamophobia’, it is essential to ground the definition in the context of recognizing the universal right to freedom of religion and belief by detailing the relevant international human rights instruments at issue.[[1]](#footnote-2) Under Article 18 of the International Covenant on Civil and Political Rights (‘ICCPR’), ‘[e]veryone shall have the right to freedom of thought, conscience and religion’. Further, Article 20 of the ICCPR establishes the freedom of expression, while also recognizing the prohibition of ‘[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.’ Also, Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination prohibits the incitement to racial hatred. In accordance with individuals’ equal protection under the law with respect to Article 16 of the ICCPR, States’ obligations to respect individuals’ rights to freedom of religion and belief necessarily entails States ensuring that any restriction on freedom of religion are connected to an adequate legal remedy, including access to domestic courts, ombudsmen, and national and international human rights institutions.[[2]](#footnote-3)

 The All Party Parliamentary Group (‘APPG’) has recently published a report in order to promulgate a helpful definition of Islamophobia: ‘Islamophobia is rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness.’[[3]](#footnote-4) Within its process of reaching a definition of Islamophobia, the APPG sought to include three key factors: (i) the *process* of Islamophobia; (ii) the *actions* that qualify as Islamophobic; and (iii) the *impact* of Islamophobia.[[4]](#footnote-5)

This form of definition provides a more general definition than that proposed by the Runnymede Trust formulated in 1997, which defined Islamophobia as ‘a useful shorthand way of referring to dread or hatred of Islam - and, therefore, to fear or dislike all or most Muslims*.*’[[5]](#footnote-6) Likewise, the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance defined Islamophobia as:

*‘a baseless hostility and fear vis-à-vis Islam, and as a result, a fear of, and aversion towards, all Muslims or the majority of them. [Islamophobia] also refers to the practical consequences of this hostility in terms of discrimination, prejudices, and unequal treatment of which Muslims (individuals and communities) are victims and their exclusion from major political and social spheres’.[[6]](#footnote-7)*

While both of these definitions provide a framework of recognizing the fear that is projected against Muslims, which results in inequalities and exclusions against Muslims, it also places an emphasis on the subjective fears of individuals against Muslims, which may place greater weight on the rationality or credibility of the bases of those fears. Thus, the APPG’s definition moves beyond these limitations by framing its definition within the context of racism, which has a wider degree of recognition within the international human rights community.

The European Network Against Racism drafted a report regarding the impact of Islamophobia on Muslim women that provided a working definition of Islamophobia framed predominantly around the racial aspects of discrimination:

*“islamophobia is a specific form of racism that refers to acts of violence and discrimination, as well as racist speech, fuelled by historical abuses and negative stereotyping and leading to exclusion and dehumanisation of Muslims, and all those perceived as such. It is a form of racism in the sense that it is the result of the social construction of a group as a race and to which specificities and stereotypes are attributed, in this case real or perceived religious belonging being used as a proxy for race. Consequently, even those who choose not to practice Islam - but who are perceived as Muslim because of their ethnicity, migration background or the wearing of other religious symbols - are subjected to discrimination. Furthermore, it is explicitly acknowledged that referring to Islamophobia is different from censorship and that critical discussions on religion and religious practices should still be possible”.[[7]](#footnote-8)*

While this provides emphasis on specific acts of violence or discrimination, it fails to account how these actions specifically impact individual victims’ enjoyment and exercise of their fundamental rights and freedoms both in the public sphere and within their private lives. While the impairment of fundamental rights may be generally inferred as a result of the discrimination, the definition does not take an explicit rights-based perspective, which may be desired in the working definition.

Perhaps the most useful contribution that the ERAN’s definition makes is that it explains how Islamophobia may be framed as a form of racism. Since Muslims are comprised of a multi-ethnic group of adherents and believers, an argument may be made that it is not desirable to label Islamophobia as a form of racial discrimination. To do so could place a negative stereotype on Muslims as a mono-ethnic community and serve to perpetuate already existing negative stereotypes already present. The ERAN’s definition thus works around this by explaining that Islamophobia is a form of racial discrimination in that the social constructions that are placed on Muslims are based on real or perceived religious belonging, as opposed to ethnic identity. As such, ERANs explains that the use of a group identity that is fabricated around perceived cultural or religious identity markers may be a proxy for race when defining the racial component of Islamophobia. Overall, it may be desirable to reference this racial-aspect of Islamophobia in a working definition, as the protection mechanisms under international human rights law are stronger for racial discrimination over protections of religious belief or identity. Thus, such a racial component would likely provide stronger legal protection for victims of Islamophobia.

Likewise, in 2017, Runnymede Trust provided an additional definition:

*‘islamophobia is any distinction, exclusion, or restriction towards, or preference against, Muslims (or those perceived to be Muslims) that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.’[[8]](#footnote-9)*

While the Runnymede Trust’s revised 2017 definition recognizes the racialized aspect of Islamophobia, it only acknowledges the process and results of Islamophobia in its ability to distinguish, exclude and restrict the victims of Islamophobia. It fails to account for the specific actions deemed to be Islamophobic.

Another workable definition of Islamophobia has been proscribed by Ömür Orhun, the former Advisor and Special Envoy of the Secretary General of the Organization of the Islamic Conference (OIC). He has argued in favor of moving from a definition of Islamophobia as a ‘fear or suspicion of Islam, Muslims, and matters pertaining to them’, to a human rights based definition of ‘intolerance and discrimination against Muslims and Islam’.[[9]](#footnote-10)

**Is the term Islamophobia necessary?**

It is largely recognized that the vilification and the incitement of anti-Muslim hatred has intensified in the mainstream media and the entertainment industry since al-Qaeda’s terrorist attacks on September 11.[[10]](#footnote-11) Within the context of fighting terrorism, the vilification of Muslims and the incitement to religious hatred has ‘contribute[d] to the denial of fundamental rights and freedoms of members of target groups, as well as to their economic and social exclusion’.[[11]](#footnote-12) The increased hostility towards Muslims or those perceived to be Muslim is due to a negative discourse of fear about Muslims based largely on pre-existing prejudices against Muslims for having non-western attributes.[[12]](#footnote-13) This is especially the case of Muslim women, who often experience increased negative stereotypes due to the Intersectionality of discrimination based on their religion as Muslims, and based on their gender. [[13]](#footnote-14) These stereotypes differ from the reality of their religious practice and personal identity, and are thus used to ‘fuel[] anti-Muslim sentiment’.[[14]](#footnote-15) This discourse is the source of multiple manifestations of anti-Muslim stigmatization, marginalization, and intolerance, which is often expressed through hate speech used to incite hostility, discrimination, and violence against Muslims.[[15]](#footnote-16)

There is a concern that the term ‘Islamophobia’ should not be used in international human rights and political discourse, as there currently is not a definition that is adequately clear enough or widely accepted by the international community to date.[[16]](#footnote-17) However, as the APPG has indicated within its report on defining Islamophobia, a definition is needed to address the fact that while the international community has adopted an agenda of equality, the concern of widespread anti-Muslim hatred has remained largely ignored or obfuscated.[[17]](#footnote-18) Additionally, the APPG report notes that a working definition of Islamophobia is often desired by victims of anti-Muslim hatred, due to its cogency and its recognition in political and policy discourse.[[18]](#footnote-19)

 Another reason why the explicit definition of Islamophobia is helpful is because it addresses the assumptions that the current post-modern society’s ethic of religious and cultural tolerance will adequately counter the concerns of rising anti-Muslim sentiment. However, the ethic of religious tolerance, which generally entails the state’s recognition of one hegemonic and dominant religion above other religious minorities, ‘f[alls] short of according equal respect to everyone across different religious or philosophical convictions’.[[19]](#footnote-20) Instead, this conception of religious tolerance ‘reinforce[s] an essential inequality between those following the official religion and those just being tolerated’.[[20]](#footnote-21) This is especially in the case of religious minorities that face religious repression and discrimination, over against the prospect of forced assimilation.[[21]](#footnote-22)

**Mapping Anti-Muslim Hatred: Review on Jurisdictions**

The following section documents trends in anti-Muslim hatred in China, the European Union (exemplified by France, Germany and the United Kingdom), India, Iraq, Myanmar, Pakistan and Palestine. It focuses on hate crime, discrimination, infringements on the ability of Muslims to manifest their beliefs, and hostility and violence from the states in question. Where applicable, the summary identifies a range of rights that anti-Muslim hatred has an impact on. The following review considers the demographic landscape, legal framework, implementation of law and challenges in practice, manifestations of anti-Muslim hatred and the gendered aspects of it in each of the outlined jurisdictions.

**Review on China**

**Demographic Landscape**

China’s total population is around 1.4 billion, from which Muslims comprise around 1.8 per cent. It has been estimated that there are around 21 to 23 million Muslims in the country.[[22]](#footnote-23)

According to reports, there are ten ethnic minorities in China in which the majority practices Islam. The biggest ethnic minorities are Hui and Uyghur Muslims. Hui Muslims are located primarily in the Ningxia Hui Autonomous Region and Qinghai, Gansu and Yunnan Provinces, with an estimated population of around 10.6 million.[[23]](#footnote-24) There are about 11 million Uyghur Muslims and 1.6 million Kazakhs, who constitute together as Turkic Muslims and live primarily in Xinjiang Uygur Autonomous Region.[[24]](#footnote-25) Reports state that Uyghur, Kazakh, Hui, Kyrgyz, and members of other predominantly Muslim ethnic minorities constitute around 14.2 million residents in Xinjiang, or 61 per cent of the total Xinjiang population.[[25]](#footnote-26)

**Legal Framework**

1. Constitutional laws

Freedom of religion in China is guaranteed by Article 36 of the Constitution of the People's Republic of China. The Constitution states that ‘no state organ, public organization, or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in or do not believe in, any religion’. However, only ‘normal religious activities’ are protected by the Constitution, while no definition for ‘normal’ has been provided. It also restricts freedom of religion on the basis of public order, the health of citizens and interference with the educational system, and bans religious organisations that are subject to any foreign domination.[[26]](#footnote-27) The law does not allow legal action to be taken against the government based on the religious freedom protections provided by the constitution.’[[27]](#footnote-28)

1. Statutory laws

In February 2018, a revised version of Regulations on Religious Affairs came into effect, which sets out strict criteria on practising religion in China. Religious organisations are required to register with local governments who have the power to turn them down.[[28]](#footnote-29) USCIRF reports that many groups refuse to register because doing so requires submitting to the direction of state-sanctioned patriotic religious associations.[[29]](#footnote-30) The regulation forbids non-religious groups, schools and activity sites not appropriately designated as religious ones from conducting religious activities, accepting religious donations and carrying out religious training. It also prohibits proselytizing, holding religious activities, establishing religious organizations, or setting up religious activity sites in non-religious schools.[[30]](#footnote-31) Religious groups are also required to give notice of any received donations that exceed 100,000 yuan ($15,900).[[31]](#footnote-32) The law requires unregistered groups to be affiliated with state-sanctioned religious associations to legally conduct religious activities.[[32]](#footnote-33)

Xinjiang region has its own counterterrorism law that among other things bans the wearing of long beards and full-face coverings and restricts halal beyond food. [[33]](#footnote-34)

1. International Obligations

During the 2018 Universal Periodic Review in the UN Human Rights Council, representatives from 24 nations asked the Chinese government about religious freedom issues. Chinese delegation dismissed the questions as ‘not factual’ and ‘politically driven.’ At the end of the reporting period, several Muslim-majority countries had publicly expressed concerns to the Chinese government about mass detention of Muslims.[[34]](#footnote-35) China is not a party to the International Covenant on Civil and Political Rights.

**Implementation of Law and Institutional Structure**

While the Constitution protects freedom of religion in cases of ‘normal religious activities’, in practice this means that religious activities have to be registered with one of the five official religious organisations sanctioned by the state - Buddhist Association of China, Chinese Taoist Association, Islamic Association of China, Three-Self Patriotic Movement and Chinese Patriotic Catholic Association.[[35]](#footnote-36) Many of the religious groups in China - such as Uyghur Muslims - are unregistered, and therefore not protected by the Constitution. The five official groups are overseen by the United Front Work Department (UFWD), an organ of the Communist Party of China. The government does not recognize religious groups not affiliated with the aforementioned associations, including unregistered Muslims, and continues to close down or hinder their activities.[[36]](#footnote-37)

In 2018, the government transferred the jurisdiction over religious affairs from the State Administration of Religious Affairs (SARA) - a government institution - to the United Front Work Department (UFWD). USCIRF states that for many religious groups, this signified a ‘removal of a buffer’ between religion and party. UFWD began a nationwide program to monitor the implementation of religious policies in provinces and municipalities across the country.[[37]](#footnote-38)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred

Several religious minority groups, including Uyghurs, Hui and Kazakh Muslims, face repression and discrimination because of their beliefs. Discrimination against Muslims across China has manifested in several ways, such as banning halal certifications for food in certain places, tracking Muslims departing for Mecca with a GPS tracker,[[38]](#footnote-39) denying entry into hotels,[[39]](#footnote-40)prohibiting face-covering veils,[[40]](#footnote-41) banning Uyghurs from Ramadan fasting,[[41]](#footnote-42) and restricting access to places of worship.[[42]](#footnote-43) Muslim communities have reported torture, physical abuse, arbitrary arrest, detainment, sentencing to prison and harassment by the authorities.[[43]](#footnote-44) There are accounts of authorities subjecting individuals to death and organ harvesting in prison because of their religious beliefs.[[44]](#footnote-45) There is also a widespread anti-Muslim speech in social media that the government has failed to tackle.[[45]](#footnote-46)

While different Muslim communities experience discrimination in China, the oppression of Uyghur Muslims is the most apparent. Human Rights Watch reports that thirteen million Uyghur and other Turkic Muslims in Xinjiang are facing harsh repressions.[[46]](#footnote-47) Hui Muslims have not experienced repressions as severe as Uyghur Muslims do, but have also faced an increased restriction on religious activities.[[47]](#footnote-48) Report say that authorities in Hui Muslim areas, such as in Gansu and Ningxia, have demolished domes on mosques and banned the public use of Arabic script.[[48]](#footnote-49)

Besides this, Amnesty International has reported that Uyghur Muslims living abroad have been threatened by Chinese government to return to China and coerced to provide information about Uyghurs living in their communities.[[49]](#footnote-50) Interviews conducted by Amnesty International with Uyghurs living outside of China document how Chinese government officials try to get in contact with the Uyghurs abroad, intimidating them in order to obtain personal information.[[50]](#footnote-51)

*1.1. Detention Camps and Political Education Camps in Xinjiang*

The government’s discrimination towards Uyghurs stems from a belief of Uyghur Muslims’ affiliation with the separatist East Turkestan Islamic Movement, when most Uyghurs do not support the separatist group.[[51]](#footnote-52) Xinjiang regional government has established detention camps and ‘vocational skill education training centers’ to carry out ‘anti-extremist ideological education’.[[52]](#footnote-53) By 2018 UN estimates, up to three million people were attained in these camps, who were all denied their right to due process.[[53]](#footnote-54)

Individuals in these camps have been subjected to forced disappearance, torture, physical abuse, prolonged detention without trial and death because of their religion and ethnicity since April 2017. There is extensive and invasive security and surveillance in the camps.[[54]](#footnote-55) A report by Human Rights Watch (HRW) gave accounts of individuals being tortured by beatings, being hung from ceilings, and prolonged shackling. The detainees were denied from seeing their family or lawyers. Former detainees interviewed by HRW considered the education training centers to be like prisons, where they were prohibited from talking in their own language and were told their release depends upon them learning Chinese.[[55]](#footnote-56) People have been held in camps for reasons such as practicing Islam, having relationships with people from certain countries, using VPN or certain communication apps such as Whatsapp.[[56]](#footnote-57)

There are accounts of people dying in the camps, however, it is not clear how many people have died and under what circumstances. Chinese authorities have not acknowledged any of the deaths.[[57]](#footnote-58)

While the authorities in Xinjiang announced in July 2019 that most detainees have been released and returned to society,[[58]](#footnote-59) this has not been backed by evidence.[[59]](#footnote-60) Reports reveal that released detainees have been assigned to work in factories against their will, where they are paid below minimum wage and are not allowed to leave.[[60]](#footnote-61) Children of detainees are held in state-run ‘child welfare’ institutions without parental consent or access.[[61]](#footnote-62)

*2.2. Other repressions in Xinjiang*

Outside the camps, the Chinese government is known to be using discriminatory profiling at armed checkpoints and police stations, applying travel restrictions and Global Positioning System tracking systems, facial and iris recognition, DNA sampling, and voice pattern sampling to monitor Muslims. The regional capital Urumqi has banned stores from using halal labels on products. Thousands of mosques have been destroyed. There are accounts of people being sentenced to death for pilgrimage to Mecca.[[62]](#footnote-63)

A program by the regional government, called “Pair Up and Become Family”, deploys local government workers to live in Muslim households for at least five days every two months to assess Muslim families’ ideological views.[[63]](#footnote-64)

Uyghur Muslims have also reported severe societal discrimination in employment, housing, and business opportunities.[[64]](#footnote-65)

1. Gendered aspects of discrimination

There are very limited accounts on how anti-Muslim hatred has affected women specifically. Women detained in camps have mentioned that they were not allowed to cover their hair with a scarf.[[65]](#footnote-66) There are also accounts of pregnant and breastfeeding women being held in the camps.[[66]](#footnote-67)

It has been reported that male government workers from “Pair Up and Become Family” programs have stayed in families where only women and children were present, leaving these women vulnerable to sexual abuse.[[67]](#footnote-68) Officials have come to women’s homes and told them to marry a Han Chinese man or their parents would be taken to detention. In response to his, several Uyghur women have committed suicide.[[68]](#footnote-69)

**Review on European Union**

**Demographic Landscape**

Islam is the second-largest religion after Christianity in Europe.[[69]](#footnote-70) The exact number of Muslims in Europe is unknown. According to the Pew Research Centre, as of 2016 the total number of Muslims in Europe is roughly 4.9%.[[70]](#footnote-71) The largest numbers of Muslims live in France and Germany, with around 4.7 million in each of the two countries making up for 46 % of all Muslims in the EU. By 2030, people of Muslim faith or origin are predicted to form about 8% of the population of Europe.[[71]](#footnote-72)

**Legal Framework**

1. European Convention on Human Rights and Charter of Fundamental Rights of European Union

Article 9 of ECHR[[72]](#footnote-73) and Article 10[[73]](#footnote-74) of the EU Charter provide the right to freedom of religion. Additionally, both treaties prohibit any discrimination which based religion or belief (Article 14 and Article 21)

1. Framework Decision on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law

The EU has specific legislation on combating racism and xenophobia by means of criminal law[[74]](#footnote-75) which obliges all EU countries to put in place legislation to penalise the most serious manifestations of racism and xenophobia, such as the public incitement to racist violence or hatred (hate speech) as well as any other crimes perpetrated with a racist motivation (hate crime). [[75]](#footnote-76)

1. Code of Conduct to Combat Online Hate Speech

The EU Commission together with major social media platforms agreed on 31 May 2016 on a Code of Conduct to fight illegal hate speech, including hate speech against Muslims.[[76]](#footnote-77) By signing up to the Code, the platforms commit to review the majority of valid notifications in less than 24 hours and remove or disable access to such content, if necessary.[[77]](#footnote-78)  Progress is regularly reported in the context of the High Level group on combating racism, xenophobia and other forms of intolerance[[78]](#footnote-79). In the recent monitoring of the Code, hate speech targeting Muslims features as the most frequently reported ground of hatred online.[[79]](#footnote-80)

**Institutional Structure and Policies**

* EU Coordinator on Anti Muslim Hatred

Tommaso Chiamparino has been appointed Coordinator on combating anti-Muslim hatred on 1 July 2018, taking over the role held by David Friggieri since 1 December 2015[[80]](#footnote-81). As the Coordinator's main mandate is to address anti-Muslim hate speech, hate crime and discrimination, the key stakeholders are Muslim, and other, organisations which deal with anti-racism and non-discrimination policy at European and national level.[[81]](#footnote-82)

* Monitoring anti-Muslim hatred and discrimination

EU Agency for Fundamental Rights (EU FRA) has created the first dedicated database on anti-Muslim hatred, containing recent surveys, case laws and reports.[[82]](#footnote-83)

* EU High Level Group

On 14 June 2016, the European Commission launched the High Level Group on combating Racism, Xenophobia and other forms of Intolerance to step up cooperation and coordination, to better prevent and combat hate crime and hate speech.[[83]](#footnote-84)

The High Level Group is intended as a platform to support EU and national efforts in ensuring effective implementation of relevant rules and in setting up effective policies to prevent and combat hate crime and hate speech. [[84]](#footnote-85)

A number of practical guidance tools have already resulted from this work, in key areas such as hate crime training, access to justice, support and protection for victims of hate crime and hate speech and hate crime recording.[[85]](#footnote-86)

**Religious Landscape**

1. Manifestation of Anti-Muslim Hatred

In the recent years stereotypes against Muslims have evolved and increased.[[86]](#footnote-87) According to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Anti-Muslim rhetoric often associates Muslims with terrorism and extremism, or portrays the presence of Muslim communities as a threat to national identity[[87]](#footnote-88). Muslims are often portrayed as a monolithic group, whose culture is incompatible with human rights and democracy. ODIHR's reporting suggests anti-Muslim hate crimes and incidents increases following terrorist attacks, and on the anniversaries of such attacks[[88]](#footnote-89). Attacks against mosques including leaving the remains of pigs outside mosques, community centres and Muslim families' homes, as well as attacks against women wearing headscarves, are among the anti-Muslim hate incidents commonly reported.[[89]](#footnote-90) For example, according to the ODOHR, total 566 hate crime against Muslims were recorded in OSCE region in 2018. [[90]](#footnote-91)

Published on 21 September 2017, Fundamental Rights Agency's wider EU-MIDIS II survey provides important EU-wide data on the discrimination experienced by persons with a Muslim background in different areas of life (labour market, education, housing, health and other services), criminal victimization (including hate crime), police stops, social inclusion and societal participation.[[91]](#footnote-92) The survey was conducted with 10,527 people who identified themselves as Muslims in 15 EU Member States.[[92]](#footnote-93)

*1.1. Education*

Many Muslims face discrimination in the area of education. Poor levels of educational achievement are factor in the discrimination faced by European Muslims. In several Member States where a notable part of the migrant population consists of Muslims (e.g. Denmark, Germany and France), migrants and descendants from third countries show lower educational completion rates and attain on average lower qualifications than the majority population.[[93]](#footnote-94) For example, many Muslims report that they felt discrimination when in contact with their children school.[[94]](#footnote-95)

*1.2. Employment*

In the EU FRA survey, nearly one in three Muslim respondents indicate that they suffer discrimination when looking for a job. This hampers their meaningful participation in society.[[95]](#footnote-96) Many Muslim respondents report experiencing unequal treatment in employment: 13 % of those who looked for work in the 12 months before the survey, and 9 % of those at work.[[96]](#footnote-97) In this context, Muslim women feel particularly discriminated against because of their clothing.[[97]](#footnote-98) Muslims are often employed in jobs that require lower qualifications. As a group they are over-represented in low-paying sectors of the economy. [[98]](#footnote-99)

*1.3. Housing*

The EU FRA survey shows that Muslim respondents’ first or last names, and their skin colour or physical appearance, prompt discrimination in all areas of life, but especially when they look for work or housing.[[99]](#footnote-100) More than half of Muslim respondents (53 %) who looked for housing felt discriminated against because of their first or last names, and slightly less than half (44 %) of those who looked for work.[[100]](#footnote-101)

The available data on victims of discrimination also show that European Muslims are often disproportionately represented in areas with poorer housing conditions.[[101]](#footnote-102)

*1.4. Ethnic and religious profiling and police abuse*

The EU FRA survey finds that of all Muslim respondents 16 % were stopped by the police in the 12 months preceding the survey and 7 % say that this was because of their immigrant or ethnic minority background.[[102]](#footnote-103) Of those Muslim respondents the police stopped in that period, 42 % believe this was because of their immigrant or ethnic minority background.

Muslim men and women who at least sometimes wear traditional or religious clothing in public were, in the five years preceding the survey, more often stopped by the police because of their ethnic or immigrant background (39% stopped) than those who do not wear such clothing (29% stopped).[[103]](#footnote-104)

*1.5. Physical or verbal attacks*

It is evident that Muslims are experiencing anti-Muslim hatred acts, ranging from verbal threats through to physical attacks, even though data on religiously aggravated incidents is collected on a limited scale.[[104]](#footnote-105) According to European Islamophobia Report 2018, Muslims are among the first victims of the rise of far-right extremism in Europe.[[105]](#footnote-106) According to this report, 678 attacks against Muslims in Germany and 676 Islamophobic incidents in France were documented in 2018.[[106]](#footnote-107)

1. Gendered aspects of discrimination

Women constitute the majority of the victims of Anti-Muslim Hatred in Europe, especially when they wear headscarves.[[107]](#footnote-108) For instance, reports note that 70% of the victims of Islamophobic acts in France are women.[[108]](#footnote-109)

Overall, Muslim women who wear headscarves (or the very few who wear niqabs) in public are more likely to experience bias-motivated harassment than those who do not.[[109]](#footnote-110) Some 39 % of Muslim women who wear a headscarf or niqab in public say they experienced, in the 12 months before the survey, inappropriate staring or offensive gestures due to this religious symbol.[[110]](#footnote-111)

Particularly, discrimination in the labour market is often related to perceptions of Muslimness, and especially the clothing of Muslim women. The headscarf is an additional obstacle in finding and keeping a job. [[111]](#footnote-112) For Example, for applications from Muslim women with a headscarf in the CV photo, only 3 % of the companies invited them to an interview in Germany.[[112]](#footnote-113) In Belgium, 44% of employers agree that wearing a headscarf can negatively influence the selection of candidates. [[113]](#footnote-114)

**Review on France**

**Demographic Landscape**

France, one of the most ethnically and religiously heterogeneous countries in Europe, including large Muslim, Jewish and Roma populations, has long struggled with profound divisions driven by inequality and cultural fears. Islam is the second-most widely professed  religion in  France behind Catholic Christianity by strong number of worshippers.[[114]](#footnote-115) According to the 2017 Pew Research report, the Muslim population of France is approximately 5,720,000 or 8.8% of the total population.[[115]](#footnote-116) Accurate statistics are difficult to come by since France does not record official statistics on religion in line with its tradition of secularism. Consequently, there is no official data available on the composition of France’s ethnic or religious minorities.

In terms of religion, some data sources have suggested that the majority (between 63 and 66 per cent) of the population are Christian, predominantly Roman Catholic, with 7-9 per cent Muslim and smaller groups (amounting to less than 1 per cent) of Buddhists and Jews, with between 23 and 28 per cent having no religious beliefs. There is significant overlap between ethnicity and religion, with many of the country’s Muslim population originating from North Africa.[[116]](#footnote-117)

**Legal Framework**

1. Constitutional Laws

The constitution and the law protect the right of individuals to choose, change, and practice religion. The constitution defines the country as a secular republic and states it “shall ensure the equality of all citizens before the law,” regardless of religion, and respect all beliefs.  The law provides for the separation of religion and state and guarantees the free exercise of religious worship except to maintain public order.[[117]](#footnote-118)

1. International Obligations and Treaty Commitments

France is a party to the main international human rights treaties, including International Covenant on Civil and Political Rights and European Convention on Human Rights.

In the recent case of *Ebrahimian v. France* of European Court of Human Rights (ECtHR), the applicant, with a temporary contract in a public hospital in the Paris area, was informed that her contract would not be renewed due to her refusal to stop wearing a headscarf. The French court ruled that the hospital was allowed to refuse renewal on this ground due to the principle of ‘laïcité’ of the State and neutrality of public service. She then turned to the ECtHR which also ruled against her upholding the non-renewal of a contract on the ground of the applicant’s refusal to take off her headscarf.[[118]](#footnote-119)

1. Statutory Laws

The statutory laws of France protect the freedom of individuals to choose, change, and practice their religion.  Interference with freedom of religion is subject to criminal penalties, including a fine of 1,500 euros and imprisonment of one month.  Individuals who are defendants in a trial may challenge the constitutionality of any law they say impedes their freedom of religion[[119]](#footnote-120).

Counterterrorism legislation grants prefects in each department the authority to close a place of worship for a maximum of six months if they find comments, writings, or activities in the place of worship “provoke violence, hatred or discrimination or the commission of acts of terrorism or praise such acts of terrorism.”  The management of the place of worship has 48 hours to appeal the closure decision to an administrative court.[[120]](#footnote-121)   The core provisions of the legislation will expire at the end of 2020 unless renewed by parliament.[[121]](#footnote-122)

The law prohibits covering one’s face in public places, including public transportation, government buildings, and other public spaces, such as restaurants and movie theatres. [[122]](#footnote-123) If police encounter a person in a public space wearing a face covering such as a mask or burqa, they are legally required to ask the individual to remove it to verify the individual’s identity.  Police officials may not remove it themselves.  If an individual refuses to remove the garment, police may take the person to the local police station to verify his or her identity. [[123]](#footnote-124) Police may not question or hold an individual for more than four hours.  Refusing a police instruction to remove a face-covering garment carries a maximum fine of 150 euros or attendance at a citizenship course.  Individuals who coerce another person to cover his or her face on account of gender by threat, violence, force, or abuse of power or authority are subject to a fine of up to 30,000 euros and may receive a sentence of up to one year in prison.  The fine and sentence are doubled if the person coerced is a minor.[[124]](#footnote-125)

Public schools are secular.  The law prohibits public school employees and students from wearing “conspicuous religious symbols,” including the Muslim headscarf, Jewish skullcap, Sikh turban, and large Christian crosses.[[125]](#footnote-126)

1. Case Law

In an April 25 ruling, the Paris Criminal Court fined the mayor of Beziers, Robert Menard, 2,000 euros for inciting hatred and discrimination through anti-Muslim comments. In September 2016 he had tweeted his “regret” at witnessing “the great replacement,” an allusion to a term used by xenophobic writer Renaud Camus to describe the country being “overtaken” by foreign-born Muslims.[[126]](#footnote-127) Menard was also prosecuted for an interview given in September 2016 in which he claimed the number of Muslim children in Beziers was “a problem.” The mayor was ordered to pay symbolic damages, of 1 to 1,000 euros to the seven antiracism organizations that had originally filed the suit against him.[[127]](#footnote-128)

In France, several court cases validated CEOs’ decisions to dismiss their Muslim employees wearing a headscarf, due to commercial imperatives.[[128]](#footnote-129) However, in 2008 and 2009, the equality body reaffirmed that according to the non-proselyte nature of religious symbols as such, the simple fact of being in contact with customers cannot be a legitimate and proportionate justification to restrict religious freedom.[[129]](#footnote-130) A landmark case was the “Baby Loup” case in Paris, France. In 2008, a social worker in a day-care centre (Baby Loup) was dismissed when she started wearing a headscarf. The victim referred to the equality body that adjudicated against the Baby Loup centre in 2010. The case was re-examined upon the request of the equality body’s new president, but the initial decision was upheld. The case then went to the Labour Court in 2010, and the equality body’s president openly supported the “Baby Loup” centre, against her organisation’s former decision. The decision of the Versailles Court of Appeal in November 2011 confirmed the previous one, but the decision of the Court of Cassation led to a new development as it recognised the abusive aspect of the dismissal, reaffirming that private sector companies were not concerned with secularism and religious neutrality. This decision was followed by a media and political frenzy and the case went back to court. Both the Paris Court of Appeal (2013) and the Court of Cassation (2014), overturning its previous decision, invalidated the former decision and the victim definitively lost the case.[[130]](#footnote-131) The “Baby Loup” case is emblematic of the political and judicial relentlessness when it comes to Muslim women, especially those wearing the headscarf.[[131]](#footnote-132)

**Institutional structure**

Though the French State is secular, in recent years the government has tried to organize a representation of the French Muslims. In 2002, the then Interior Minister Nicolas Sarkozy initiated the creation of a "French Council of the Muslim Faith" (*Conseil Français du Culte Musulman* – CFCM), though wide criticism claimed this would only encourage communitarianism. Though the CFCM is informally recognized by the national government, it is a private non-profit association with no special legal status. [[132]](#footnote-133)

Yet, anti-Muslim racism is monitored in France. Three main institutions publish and analyze annual statistics on Islamophobia, namely the French Ministry of Interior, the French Council of the Muslim Faith (CCIF), and the National Advisory Commission on Human Rights (CNCDH). Depending on their methodology, the figures they present differ from one another. [[133]](#footnote-134)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred

In France islamophobia is rising every year. However, it is difficult to monitor all Islamophobic attacks since many victims do not report or press charges against their aggressor. Firstly, cognitive biases such as humiliation and assimilation of subaltern conditions often prevent the victims from denouncing Islamophobic attacks. Secondly, the French justice system is not efficient in prosecuting racist acts and this inefficiency also prevents victims from reporting.[[134]](#footnote-135)

*Physical and Verbal Attacks*

According to the Collectif contre l’islamophobie en France (CCIF), 789 Islamophobic incidents were documented in 2019 against 676 in 2018 and 446 in 2017 (increase of 52%).[[135]](#footnote-136) Islamophobia is not disconnected from the other forms of racism. The CCIF notices that 70% of the victims of Islamophobic acts are women.[[136]](#footnote-137) The National Advisory Commission on Human Rights (CNCDH) in its 2018 report on the state of racism in France also highlights that Islamophobic acts go along with aversion to feminist and secular values.[[137]](#footnote-138) In other words, Islamophobic acts do not only target Muslims but also women, melting pot values, and what is perceived as “the other.” Islamophobia in France relies on nationalistic discourse and far-right imaginary of race, land and culture, not on the defence of freedom and secular values as Islamophobes pretended. [[138]](#footnote-139)

*Employment*

Access to the labour market is more difficult for immigrants in France than in Germany, Austria, Switzerland and the UK. The tight labour market aggravates this situation. On the other hand, the late sorting of students into educational paths facilitates the integration of children from immigrant families. Accordingly, only 11 percent of the Muslims born in France leave school before age 17. Muslims in France also score highest in this five-country comparison in regard to language integration: 74 percent of Muslims in France learned French as their first language in childhood, although one reason is that many immigrants (57 percent) bring some knowledge of the language from their country of origin. Also, in the second and third generation of immigrants, significantly more Muslim children (93 percent) learn the national language as their first language. However, the French labour market is not very inclusive; as a result, significantly fewer Muslims are gainfully employed, and their income is lower. Thus, France exhibits a clear divide, with good levels of integration in language and education countered by a difficult labour market.[[139]](#footnote-140)

Restrictions on expressing religious beliefs at work French legislation for the public sector is defined by a policy of strict neutrality, with civil servants and public employees requested to refrain from expressing their beliefs at work. [[140]](#footnote-141)In the private sector, the employer can only restrict employees from expressing their beliefs if this would hinder the functioning of the company, or on health and safety grounds. In both sectors, the wearing of a veil covering the face is forbidden in a public area when welcoming customers (such as in cinemas, shops, banks and railway stations), or in public services when it is not possible to identify the individual wearing the veil.[[141]](#footnote-142) The recent law reforming the labour code contains a controversial provision: internal rules of procedure within a company may stipulate the principle of neutrality within the company and restrict the expression of belief.[[142]](#footnote-143) Recently, the short-term employment contract of an employee of a public hospital was not renewed when she refused to take off her veil after patients had complained. According to the decision by the European Court of Human Rights in December 2015, this was considered lawful.[[143]](#footnote-144)

 *Education*

Islamophobia in education targeted mostly signs of belonging to Islam such as headscarf, halal meat, and the Arabic language. Certain French politicians requested the hijab ban in French universities (the hijab was already banned from primary school up to high school in 2004), such as the deputy of the Republicans party Julien Aubert in November 2018.[[144]](#footnote-145)

*Hate Speech*

According to the European Islamophobia Report, in 2018, most of Islamophobic controversies often started from social media before being debated in mainstream media and triggering reactions among French politicians. [[145]](#footnote-146)It is not always easy to untangle these three spheres. Yet, mainstream media (i.e. books, TV, radio, and newspapers) greatly participated in creating a negative newspeak related to Islam and Muslims.[[146]](#footnote-147) The negative newspeak that targeted Muslims is not a new phenomenon in France. Yet the process of keeping French Muslims within a degrading linguistic framework increased in 2018 in addition to being normalized.[[147]](#footnote-148)

1. Gendered aspects of discrimination

In France, the French National Observatory against Islamophobia insists on the fact that most verbal or physical aggressions concerned women wearing headscarves.[[148]](#footnote-149) CCIF data on Islamophobia reveal that in 2019, 70% of Islamophobic acts and speech targeted women.[[149]](#footnote-150) Muslim women, especially those wearing some type of headscarf, account for almost 100% of victims of physical aggressions.[[150]](#footnote-151)

All national reports and many roundtables’ discussions confirm that media tend to show a stereotypical image of Muslim women, especially Muslim women wearing the headscarf. This imagery is fuelled by stereotypes on women and their assumed position in the Islamic tradition.[[151]](#footnote-152)

Some media instrumentalize news to ‘reiterate’ the danger of an ‘Islamic invasion and represent Muslim women as a threat to national traditions and values, such as gender equality or values of secularism. Covers, headlines, images and caricatures used in the media are also used to fuel previously mentioned stereotypes.[[152]](#footnote-153) For example, in France, the covers and editorial policies of some newspapers and weekly magazines such as Le Point, L’Express, or Valeurs Actuelles all participate in portraying Muslims as a problem, through the female figure. For example, in 2014, 79% of the respondents to a survey in France stated that the headscarf was a problem for “vivre-ensemble” (“living together”), 11 points more than in 2013. [[153]](#footnote-154)

**Review on Germany**

**Demographic Landscape**

As of July 2018 estimates, the US government calculates the total German population to be of 80.5 million. According to unofficial estimates based on the census and figures provided by religious groups, approximately 29 per cent of the population is Roman Catholic and 27 per cent belongs to the EKD —a confederation of Lutheran, reformed (Calvinist), and united (Prussian Union) protestant regional churches. Other protestant denominations account for less than 1 per cent of the population and orthodox Christians conform 2.4 per cent.[[154]](#footnote-155)

According to government estimates, 6.3 per cent of the population is Muslim. 75 per cent of which is Sunni, 13 per cent Alevi and 7 per cent Shia; the remainder identifying only as Muslim. The Minister of interior indicated that approximately 25 per cent of Muslims are recent immigrants, considering approximately 1.2 million refugees arriving from predominantly Muslim countries between 2011 and 2015.[[155]](#footnote-156)

The Jewish population is estimated between 100,000 and 200,000 according to the Central Welfare Office for Jews in Germany and the Central Council for Jews respectively. According to Religious Studies Media and Information Services (REMID), a secular religious studies NGO, groups that together constitute less than 1 per cent of the population include Buddhist, Jehovah’s Witnesses, Hindus, Yezidis, the Church of Jesus Christ Latter Day Saints, Sikhs and COS; this considering people registered with religious groups. According to the non-profit research group, Worldviews Germany, approximately 36 per cent of the population has no religious affiliation or belongs to religious groups not counted in the government Statistics.[[156]](#footnote-157)

However, the accuracy of government estimates may be questioned. For example, as of 2014, a study showed that 33 per cent of the 70,000 Iranians in Germany define themselves as atheists, and 72 per cent do not practice religion in any way, yet they were all counted as Muslims by the Interior Ministry.[[157]](#footnote-158)

**Legal Framework**

Germany’s Constitution or Basic Law establishes freedom of religion as an inviolable right,[[158]](#footnote-159) including conscientious objection to military service.[[159]](#footnote-160)

Regarding education, it establishes religious instruction as part of the curriculum in public schools, except for non-denominational schools, which shall be given according to the tenets of the religious community, without prejudice to the State’s right of supervision.[[160]](#footnote-161) Teachers are not obliged to give religious instruction against their will, and parents and guardians have the right to decide if children shall receive religious instruction.[[161]](#footnote-162) The Constitution also guarantees the right to establish private denominational schools with State’s approval.[[162]](#footnote-163) As of 2018, the states of Bavaria, Baden-Wuerttemberg, Berlin, Hesse, Lower Saxony, North-Rhine Westphalia (NRW), Rhineland-Palatinate, Saarland and Schleswig-Holstein offered some religious instruction in Islam, with teachers provided by the religious community or, only in Bavaria and Schleswig-Holstein, the government. Home-schooling is prohibited in all states, including for religious reasons.[[163]](#footnote-164)

The Constitution also prohibits an official State church by stipulating: “No one shall be required to disclose his or her religious convictions or be compelled to participate in religious acts”.[[164]](#footnote-165) It guarantees the freedom to form religious societies and State groups may organise themselves for private religious purposes with no constraints. And allows registered religious groups with public law corporation (PLC) status to receive public subsidies from the states and provide religious services in the military, at hospitals and prisons. Religious groups can also apply for non-profit association with tax exempt. They must register for this and must prove through their statutes, history and activities that they are a religious group. Both status are granted at state level.[[165]](#footnote-166)

The federal criminal code prohibits incitement to violence or hatred or arbitrary measures against religious groups and their members; assaulting the human dignity of religious groups or their members by insulting, defaming or maliciously maligning them, including online speech. These are punishable by up to five years imprisonment, though sentences are rare. Disturbing religious services or acts of worship is also prohibited, punishable by maximum 3 years imprisonment.[[166]](#footnote-167)

The law permits the government to characterize religious groups as “sects”, “youth religions” and “youth sects”, allowing them to provide accurate information or warnings about them to the public, as long as they do not use terms such as “destructive”, “pseudo-religious” or “manipulative”. Some courts’ rulings have determined that the state must remain neutral to religious groups, and may only warn the public when an offer by a religious group would put their basic rights in danger or place them in situation of physical or financial dependence.[[167]](#footnote-168)

According to a ruling by the Federal Constitutional Court, general banning of headscarves for teachers in public schools violates religious freedom, but implementation is left to the states, as a specific ban may be allowed when a specific danger to the peace in schools or the State’s duty of neutrality arises, though a balance must be found between this legitimate aim and the teachers freedom of religion.[[168]](#footnote-169) As of 2018, Bavaria, NRW and Saarland take decisions on a case by case basis; Schleswig-Holstein, Hamburg and Bremen do not ban headscarves for teachers; Hesse allows teachers to wear headscarves as long as this does not impair school peace or threaten perceptions of the State’s neutrality; Berlin bans visible signs of religious affiliation for police, lawyers, judges, law enforcement staff and primary and secondary public schools teachers (though some categories of institutions, e.g. vocational schools, are excluded from this ban). Other States prohibit certain attire for specific circumstances; e.g. in April 2018 the Bavarian parliament amended its legislation, prohibiting judges, prosecutors and judicial trainees from wearing religious symbols in court.[[169]](#footnote-170)

Federal law also prohibits the concealment of faces while driving, which includes the veil, for reasons of safety and the need for traffic enforcement. Infractions are punishable by a fine of €60 euros. In 2018, the Federal Constitutional Court dismissed a suit by a woman who wanted to drive wearing the niqab, arguing that she had not sufficiently demonstrated how this law restricted her religious freedom.[[170]](#footnote-171)

Regarding international responsibility on freedom of religion, Germany is a party to: the International Covenant on Civil and Political Rights (ICCPR), which establishes this right in its article 18,[[171]](#footnote-172) and a specific guarantee of this right to ethnic, linguistic and religious minorities.[[172]](#footnote-173)The European Convention on Human Rights (ECHR), establishing this right in its article 9,[[173]](#footnote-174) and parents’ right to have their children educated in conformity with their religious and philosophical convictions.[[174]](#footnote-175) And, as part of the European Union, the Charter of Fundamental Rights, which establishes freedom of thought, conscience and religion;[[175]](#footnote-176) parents’ right for their children to be educated in conformity with their religious, philosophical and pedagogical convictions,[[176]](#footnote-177) and; respect for religious diversity.[[177]](#footnote-178) As well as religion or belief being one of the explicit grounds on which discrimination is prohibited, according to all these instruments.[[178]](#footnote-179)

**Implementation of Law and Challenges in Practice**

Federal statistical data on the number of anti-Muslim and anti-Christian hate crimes became available in May 2018, police having just added these categories to their criminal statistics the year before; antisemitism was already a category of hate crime in federal statistics. In that same year, some states added their own data basis for these hate crimes. As of 2018, Federal and state Offices for the Protection of the Constitution (OPCs), monitor a number of Muslim groups.[[179]](#footnote-180)

Regarding education, in June 2018, the Baden-Wuerttemberg government announced it planned to re-organise Islamic religious education in schools. The Minister President, Winfried Kretschmann, proposed establishing a Sunni educational foundation to serve as mediator between the state and various Islamic associations, because of the absence of a single Islamic partner. However, the state announced it would continue the existing system for one more school year, since it did not reach a decision on any model for this education. The Alevi Muslim community continues to offer separate religious lessons in schools in eight states. And in June of the same year, a public university (Berlin Humboldt University) created a an institute for Islamic theology, to begin training Imams and religion teachers in 2019. The state of Berlin pledged to provide funding through 2022 for this institute. The institute was created in cooperation with three Muslim associations (the Central Council of Muslims, Islamic Federation and Islamic Association of Shia Communities), who were to have a voice in the selection of the institute’s professors. Some student organisations and the Berlin CDU disapproved of the extent of these associations control, or what they described as their conservative orientation.[[180]](#footnote-181)

Referendums have been carried out regarding the building of new mosque, as Islamophobia rises in the country.[[181]](#footnote-182) The Higher Administrative Court in Muenster, NRW, determined in March 2018 that and event venue owner could not rent his venue for a Muslim circumcision celebration schedule for Good Friday, affirming a previous ruling by a Court of Cologne, since the jubilant nature of the event contradicted the quiet nature of the Christian Good Friday observance legally enforced by NRW and other states.[[182]](#footnote-183) Further, the call to Muslim prayer through loudspeakers has also been ban in many instances.[[183]](#footnote-184)

More direct anti-Muslim attitudes, speech and actions are also expressed by the government and political parties, including during campaigns. Moreover, according to the US state Department report on Germany’s freedom of religion, parliament members have used hate speech in social media. In January 2018, AFD Bundestag member Beatrix Von Storch, tweeted in response to police twitting a new year’s day greeting in Arabic, saying that “Cologne police were appeasing “barbaric, gang-raping, Muslim hordes””.[[184]](#footnote-185) Twitter briefly suspended her account and the Cologne police initiated a criminal report for suspicion of inciting hatred, a procedure they were legally obliged to do. The police also received around 100 complaints from individuals regarding this tweet. Twitter also deleted a comment defending her colleague by AFD parliamentary Caucus chief Alice Weidel, referring to Muslims as “imported, marauding, grabbing, beating, knife stabbing migrant mobs”.[[185]](#footnote-186) Further, in a parliamentary debate, Weidel argued that “the uncontrolled immigration of Muslims endangered the wealth of the country, saying: “Burquas, headscarf girls, subsidized knife men and other good for nothings will not secure our wealth, the economic growth, and most of all, our welfare state””.[[186]](#footnote-187) AFD state member (MP) Holger Arppe was also found guilty of hate speech against Muslims in 2016, for comments he wrote in the right wing website Politically Incorrect, using a pseudonym. In 2018 the Rostock District Court upheld the lower court’s decision, increasing his fine from €6,300.00 to €9,000.00 euros.[[187]](#footnote-188)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred in Society

In 2018 there were numerous reports of anti-religious hate crimes, including anti-Muslim hate crimes. This include assaults, verbal harassment threats, discrimination and vandalism. In 2017, first year with an anti-Muslim and anti-Christian hate crimes record by the authorities, the Ministry of Interior registered 1,075[[188]](#footnote-189) incidents against Muslims and Muslim institutions (e.g. mosques and community centres), including 56 attacks involving bodily harm. Online hate speech, hate mail and aggressive behaviour on streets were also recorded, as well as approximately 90 demonstrations against the Islamisation of Germany.[[189]](#footnote-190) 2012 surveys further found that the rejection of different kinds of non-Christian religions in Germany is stronger than in neighbouring countries, and this is particularly so for Islam.[[190]](#footnote-191)

It is also important to note that, between 2017 and 2018, the Interior Ministry reported 1,212 criminal offences against refugees and asylum-seekers, and 210 offences against asylum-seekers accommodations. The state authorities continued to fail to implement an effective assessment strategy to identify the risks of this kind of attacks, in order to provide adequate police protection if needed.[[191]](#footnote-192) This data does not distinguish between religions, however, considering the racial aspect of Islamophobia and that the majority of these refugees and asylum-seekers come from Muslim majority countries, it is important to consider these numbers.[[192]](#footnote-193) This racial aspect of anti-Muslim hatred is also seen in the interviews and study carried out by Esra Özyürek on the increase of German converts to Islam. She found that Non-Muslim Germans tend to treat German converts as foreigners, non-German or traitors, this attitude being more prominent against women who wear the headscarf. Furthermore, German converts tend to discriminate and have negative opinions of migrant Muslims, more so against Turks, Arabs being a little more accepted. They go as far as to try to redefine Islam as free of the traditions from the migrants and refugees’ countries and more based on European enlightenment values.[[193]](#footnote-194)

Examples of anti-Muslim hatred manifestations include: in February 2018 an unknown perpetrator fired with an air gun from a higher building towards a mosque in Halle, injuring a Syrian man. In June of the same year, a similar incident happened near the same mosque. Police investigated but did not identify a suspect in either case. On the 31st of August, the Dresden District Court sentenced a man to nine years and eight months in prison as they found him guilty of attentive murder, arson, and bombing a mosque in 2016. On August 26th, a peaceful rally was organised in Chemnitz by the AFD and the group Patriotic Europeans Against the Islamisation of the West (PEGIDA), after the killing of a citizens reportedly by a Syrian and Iraqi refugees. That same day, around 800 people participated in a demonstration downtown, reportedly shouting anti-migrant slogans, attacking passers by who looked as migrants, and clashing with police. Public protests and manifestations against the building of new Mosques are also common, as well as vandalism and graffiti, including one instance of anti-Muslim graffiti on the Al-Nour mosque in Hamburg, right before its opening in September 2018.[[194]](#footnote-195) The Sueddeutsche Zeitung newspaper reported that, between mid-January and mid-March, there were 26 attacks on mosques, 18 of them belonging to DITIB. DITIB, the Central Council of Muslims and the Islamic Council, expressed in a joint statement the Muslim community’s perception that politicians and the public were not taking their concerns on their safety and that of their mosques seriously. The investigation on these cases continued without any results by year’s end.[[195]](#footnote-196)

An important case, generally considered Islamophobic, is that of the NSU Bosphorus serial murders, where ethnic Turks were the primary target.[[196]](#footnote-197) In June 2017, “the second Committee of Inquiry – established by Parliament in 2015 to address the authorities’ failure to investigate the racist crimes perpetrated by the far-right group Nationalist Social Underground (NSU) between 2000 and 2007 – concluded that the authorities had to establish clear rules for infiltrating “far-right extremist” movements, provide long-term funding to civil society initiatives against racism and assist victims of racist crimes. The authorities continued to fail to launch an official investigation into the potential role of institutional racism behind Germany’s failure to investigate the crimes committed by the NSU”.[[197]](#footnote-198)

1. Gendered aspects of discrimination[[198]](#footnote-199)

According to researcher Riem Spielhaus, anti-Muslim hatred is not necessarily stronger towards women than men. What differs are the stereotypes associated to each of them. That is, there are gendered forms of anti- Muslim racism. While women are associated with oppression and lack of agency, men are associated with criminality, terrorism and being the oppressor”.[[199]](#footnote-200) In this regard, the headscarf and other veiling practices by Muslim women are viewed in terms of the oppression of women. This perception is further perpetuated by the media, which portrays Muslims in a negative light, including the mentioned stereotypes.[[200]](#footnote-201)

Muslims are also discriminated in employment, with 7 per cent less likelihood to be hired than their Christian counterparts, even with the same qualifications.[[201]](#footnote-202) However, several studies show that Muslim women face more discrimination in employment than Muslim men, both at the private and public sector, and independently of their education and qualifications. This being particularly worse for women who wear the hijab or niqab.[[202]](#footnote-203) Regarding regulations in the private sector, the headscarf enters into the right to freedom of religion. However, exceptions are made when it is perceived as incompatible with internal requirements for processes, hygiene and security; and exceptions are also applied when veiled employees are seen to lead to clear economical damage or working disturbances.[[203]](#footnote-204) These kind of measures are also prominent in education, both for teachers and school staff, as was seen in the legal framework section, and for students.[[204]](#footnote-205)

Regarding hate crimes and speech, from the studies carried out in this topic, it was concluded that Muslim women are more strongly affected than other groups by Islamophobia. Statistics show a rise in these attacks and the image of the veiled woman is used to represent the main enemy on extreme right websites. A survey conducted by “Antidiskriminierungsstelle des Landes Brandenburg among Muslim women in Germany, found that 59% of the respondents were intentionally insulted, verbally abused or accosted”.[[205]](#footnote-206) This has led to Muslim women being increasingly concerned of becoming victims of hate crimes and speech. In response, self-defence classes are becoming popular within Muslim women, and a considerable number of Muslim women do not go out by themselves for fear of potential attacks, others only go out in groups, avoid going out when its dark or going to particular places where there’s more racism.[[206]](#footnote-207)

Gabriele Boos-Niazy from the Aktionsbündnis Muslimischer Frauen indicated that that for years Muslim women have repeatedly reported attacks that include verbal and physical offences. The latter including instances where women are being spat at, their headscarves being pulled off, people barging into them or they are beaten up. Unfortunately, most of these cases are not reported.[[207]](#footnote-208) One famous and serious case is that of the murder of 31-year-old Marwa Elsherbini, a Muslim woman of Egyptian origin, in 2009. This case is also important as it involved both a hate crime and hate speech and it highlights the existence of institutional and social bias against Muslims. “Marwa, who was pregnant at the time of the aggression, was stabbed to death in the Dresden courtroom during the trial of the murderer for insulting her for wearing a headscarf. She had initiated legal proceedings against him because he had offended her at a playground in relation to her Muslim appearance, after asking him to let her son use the swing. He called her a terrorist and Islamist. On the day of the trial Alexander Wiens plunged a knife into her 18 times, while Marwa was in the dock telling the judge about the playground incident. Security personnel and policemen arrived too late. Her husband, who ran to her to save her, was also attacked by the murderer and later shot by a police officer who had assumed that he was the attacker.[[208]](#footnote-209)

**Review on the United Kingdom**

**Demographic Landscape**

The religions in the UK are Christianity (Church of England, Roman Catholicism, Presbyterianism, Methodism, Baptism), Islam, Hinduism, Sikhism, Judaism, Buddhism. The main minority religions are Muslims 2.8 million (4.4 per cent), Hindus 835,400 (1.3 per cent), Sikhs 432,400 (0.7 per cent), Jews 269,600 (0.4 per cent) and Buddhists 261,600 (0.4 per cent).[[209]](#footnote-210)

Across the variety of topics included in this analysis, British Christians are more likely than the religiously unaffiliated (atheists, agnostics and those who identify as “nothing in particular”) to express nationalistic, anti-immigrant or anti-religious minority sentiments, mirroring findings from Western Europe more broadly[[210]](#footnote-211). For example, 42% of British Christians would notbe willing to accept a Muslim as a member of their family, but only 15% of the UK’s religiously unaffiliated say this.[[211]](#footnote-212)

Statistics also prove that many people still see Islam in an unfavourable light, as 18% of people in the U.K. hold very negative views of Muslims. Accordingly, 44% of the U.K. public believes Islam is a grave threat to Western civilization, while 31% of people are convinced Islam is a threat to the British way of life, compared to 32% of people who think Islam is compatible with the British way of life.[[212]](#footnote-213) The main reasons for this negative outlook on Muslims stem from the fear that Islam will threaten British values, laws and freedom of speech. It has been reported that 41% of people in the U.K. think that Islam threatens the British way of life because "Islam breeds intolerance for free speech and calls for violent actions against those who mock, criticize or depict the religion in ways they believe are offensive."[[213]](#footnote-214) Moreover, 36% of people thought that Islam threatens their way of life because "Islam seeks to replace British law with Sharia law."[[214]](#footnote-215)

**Legal Framework**

1. Constitutional Laws

In the absence of a written constitution, the law establishes the Church of England as England’s state church. [[215]](#footnote-216)  Scotland, Wales, and Northern Ireland do not have state religions.  Legislation establishes the Church of Scotland as Scotland’s national church, but it is not dependent on any government body or the queen for spiritual matters or leadership. [[216]](#footnote-217)

1. International Obligations/Treaty Commitments

The UK is a party of almost all international documents. One of them is the European Convention on Human Rights. Article 9 of ECHR[[217]](#footnote-218) provides the right to freedom of religion. Additionally, Article 14 of it prohibits any discrimination which based on religion or belief.

In the case of *Armani da Silva v. UK*, the European Court of Human Rights effectively cleared of criminal responsibility security officials responsible for the killing of Jean Charles de Menezes in 2005[[218]](#footnote-219). De Menezes was trailed and then shot dead at London's Stockwell tube station by jumpy security officers who mistook him for a suicide bomber a fortnight after multiple bombings on the capital's transport network in 2005.[[219]](#footnote-220)

1. Statutory laws

The Human Rights Act 1998 protects freedom of thought, conscience, and religion.[[220]](#footnote-221)  It states, “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with other and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.”[[221]](#footnote-222)  The Human Rights Act reaffirms the European Convention of Human Rights, Article 9, which guarantees freedom of thought, conscience, and religion, subject to certain restrictions that are “in accordance with law” and “necessary in a democratic society.”

The Equality Act 2010 bans discrimination against people for being, or not being, a particular religion or holding, or not holding, a specific philosophical belief.[[222]](#footnote-223) The act says that religion or belief can mean anything from Christianity, Judaism, Islam or Buddhism, to smaller religions, such as Rastafarianism or Paganism, as long as it has a clear structure and belief system.[[223]](#footnote-224)

In England and Wales, the law prohibits religiously motivated hate language and any acts intended to incite religious hatred through the use of words or the publication or distribution of written material.[[224]](#footnote-225)  The law defines religious hatred as hatred of a group because of its religious belief or lack thereof. [[225]](#footnote-226)  The police are responsible for investigating criminal offenses and for gathering evidence; the Crown Prosecution Service, which is an independent body and the main public prosecution service for England and Wales, is responsible for deciding whether a suspect should be charged with a criminal offense.  The maximum penalty for inciting religious hatred is seven years in prison.  If there is evidence of religious hostility in connection with any crime, it is a “religiously aggravated offense” and carries a higher maximum penalty than the underlying crime alone. [[226]](#footnote-227)  In Scotland the law requires courts to consider the impact of religious bias when sentencing.[[227]](#footnote-228)

Throughout the country the law requires religious education and worship for children between the ages of three and 13 in state-run schools, with the content decided at the local level.  Parents may request to exempt their children from religious education.  At age 13, students themselves may choose to stop religious education or continue, in which case they study two religions.[[228]](#footnote-229)

An estimated between 30-85 sharia councils operate parallel to the national legal system.[[229]](#footnote-230)  They adjudicate Islamic religious matters, including religious divorces, which are not recognized under civil law.  Participants may submit cases to the councils on a voluntary basis.  The councils do not have the legal status of courts, although they have legal status as mediation and arbitration bodies.

**Implementation of Law and Challenges in Practice**

1. Institutional Structure

Participations of the Muslims in the political life of the UK are increasing.[[230]](#footnote-231) Nineteen Muslim MPs were elected in the December 2019 general election.[[231]](#footnote-232) However, the prejudices against Muslims in politics remain. For example, in August 2018, former Foreign Secretary and Conservative MP and today’s Prime Minister Boris Johnson wrote an opinion piece in *The Telegraph* newspaper in which he compared fully veiled Muslim women to “letter boxes” and “bank robbers.”[[232]](#footnote-233)  Johnson faced criticism from a range of voices within his party, the opposition, and civil society. In December an independent panel cleared Johnson of breaking the Conservative Party’s code of conduct.  The panel found that while his comments could be considered provocative, it would be ‘unwise to censor excessively,’ adding that Conservative Party rules do not “override an individual’s right to freedom of expression.”[[233]](#footnote-234)

In 2018, the Home Office and the Department for Housing, Communities, and Local Government updated the government’s 2016 Hate Crime Plan[[234]](#footnote-235).  The updated plan includes more than 1.5 million pounds ($1.92 million) of new funding for educational programs to challenge discriminatory beliefs among young persons.  The plan also extended the Places of Worship Security Funding Scheme from three to four years.  Additional new measures include a Law Commission review into hate crime; a nationwide public awareness campaign; specialist training for police call handlers on how to support hate crime victims; an upgrade of the reporting website, True Vision; and roundtables hosted by government ministers on anti-Semitism and anti-Islamic sentiment.[[235]](#footnote-236)

The Equality and Human Rights Commission (EHRC) – a body sponsored by the Department of Education’s Government Equalities Office – is responsible for enforcing legislation prohibiting religious discrimination. The EHRC researches and conducts inquiries into religious and other discrimination in England, Scotland, and Wales. The minister for women and equalities appoints the members. If the commission finds a violation, it may issue a notice to the violator and seek a court order to enforce the notice. The EHRC receives government funds but operates independently. The Northern Ireland equivalent to the EHRC is the Equality Commission.[[236]](#footnote-237)

Anti-Muslim Hatred Working Group, established in 2012 by the Government, is focused on tackling anti-Muslim hatred. The Working Group is the government’s main forum for discussing issues of concern with Muslim communities. The cross-government organisation brings together government officials and non-government experts. It consists of eleven government departments, including Attorney General’s Office, Cabinet Office, Crown Prosecution Service, Home Office and Ministry of Justice, and several representatives from Muslim communities, independent experts, academics, and ex-officio members.[[237]](#footnote-238)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred

Tell MAMA, an organisation that monitors anti-Muslim hate crime in the UK, verified 1,078 reports of anti-Muslim or Islamophobic incidents in 2018.[[238]](#footnote-239) Besides this, the organisation received reports of 1,891 anti-Muslim crimes and incidents from 20 police forces in the UK in 2018, a number that does not overlap with the 1,078 verified reports. Anti-Muslim sentiment has generally been on the rise in the UK in recent years. In 2017, Tell MAMA verified 1,201 reports of anti-Muslim hate crime, which is the highest number they have recorded since its launch in 2012.[[239]](#footnote-240)

The organisation detected two instances in 2018 when anti-Muslim hatred peaked. Firstly, a campaign called ‘Punish a Muslim day’ in April and May saw letters being sent to households encouraging anti-Muslim violence. Following this, the organisation recorded 37 street-based instances of violence directly referred to the campaign.[[240]](#footnote-241) Secondly, in August 2018, Boris Johnson, then a foreign secretary, wrote a column where he referred to Muslim women as ‘bank robbers’ and ‘letter boxes’.[[241]](#footnote-242) Following the article, Tell MAMA recorded an increase of anti-Muslim attacks of 375 per cent - from eight incidents in the previous week to 38 in the following – 22 of those were directed at Muslim women wearing a veil.[[242]](#footnote-243)

Research shows that Jihadi terrorist attacks are usually followed by a spike of hate crime against Muslims or those who appear to be Muslims.[[243]](#footnote-244) In 2019, there was a surge of anti-Muslim hate crimes after Christchurch shooting in New Zealand on 15 March, with 95 incidents taking place between 15 to 21 March. Out of these, 85 incidents contained direct references to the New Zealand attacks.[[244]](#footnote-245) The Guardian reported of verbal abuse directed at Muslims in London saying, “you need to be shot”, “you deserve it” and “Muslims must die”.[[245]](#footnote-246)

Data by Home Office shows 11 per cent of an increase of race hate crimes (up 7,727 to 78,991 offences) between 2017/18 and 2018/19 recorded by the police forces in England and Wales. At the same time, religious hate crime rose by three per cent (up 227 to 8,566 offences).[[246]](#footnote-247) 47 per cent of religious hate crime offences were targeted against Muslims (3,530 offences), making it the religion with the biggest number of offences.[[247]](#footnote-248) While the data shows an increase of racially and religiously aggravated offences, Home Office points out that this reflects improvements in crime recording by police.[[248]](#footnote-249)

Anti-Muslim hatred and hate crime manifests in several ways. In recent years, there have been various attacks on mosques around the UK. Instances include vandalising walls with slurs,[[249]](#footnote-250) setting mosques on fire,[[250]](#footnote-251) and attacks during prayer.[[251]](#footnote-252) Hate crime incidents recorded by Tell MAMA include abusive behaviour, assault and discrimination.[[252]](#footnote-253) Abusive behaviour manifested in verbal discriminatory comments, threats or physical assault, such as pushing, spitting and unwanted physical contact.[[253]](#footnote-254) Incidents also included targeting victim’s household or private property (such as parking in front of driveways, emptying bins in front of victim’s house, or social exclusion)[[254]](#footnote-255) and symbolic attacks using pork products and alcohol.[[255]](#footnote-256)

Besides blatant anti-Muslim hate crimes, Muslims in the UK continue experiencing discrimination in various fields. Religion Monitor Report (2017) by Bertelsmann Stiftung found that 42 percent of the surveyed Muslims reported having experienced discrimination in the past twelve months.[[256]](#footnote-257) Muslims, particularly Muslim women, experience marginalisation and discrimination in employment.[[257]](#footnote-258) Data shows that Muslims are also less likely to own homes compared to the general population and are more likely to live in deprived neighbourhoods and overcrowded housing.[[258]](#footnote-259) There has also been an increase of anti-Muslim hostility in educational institutions, with children being called ‘terrorists’ by their peers.[[259]](#footnote-260)

1. Gendered aspects of discrimination

As of 2016, there were 1,332,272 Muslim women in England, Wales and Scotland (Northern Ireland’s census does not provide separate data for Muslim and other non-Christian religions, which makes it difficult to assess the number of Muslim Women in this region). The majority are young women and increasingly well educated, with a rate of 36 per cent of young women in London going to university.[[260]](#footnote-261) When considering ethnicity, the largest groups belong to the South Asian diaspora; 38 per cent Pakistani, 14.9 per cent Bangladeshi and 7.3 per cent Indian, other groups include Arab, African, white, etc.[[261]](#footnote-262)

According to the Forgotten Women report on Muslim women in the UK published by ENAR, British Muslim women have been portrayed in the media mainly through the veil and different veiling practices. Which, according to several studies and surveys, are seen as a form of oppression, threat, and incompatible with modern and British values. A study on attacks to Muslim women showed the causes behind them to be social misunderstandings attributable to the way Muslims are portrayed in the media.[[262]](#footnote-263) The political response has further engraved these social constructions. Policing and counter-terrorism efforts usually affect Muslim Men since they are stereotyped as terrorists, but stereotypes about Muslim women also have an effect on how they approach this group.[[263]](#footnote-264) In this regard, further polls show that Muslim women feel more threatened, unaccepted and not safe in British society.[[264]](#footnote-265) This opinion reflects reality, since the majority of hate crimes are perpetrated against Muslim women, one reason being their easy identification because of the mentioned religious symbols.[[265]](#footnote-266)

Before discussing hate crimes against women, according to the mentioned Forgotten Women report, Muslim women are also particularly penalised with regards to employment, experiencing a wider pay gap because of their gender, ethnicity and religion; 18 per cent for women of Muslim majority ethnicities, compared with 16 per cent for white women for example.[[266]](#footnote-267) They also have a harder time on employment applications, being discriminated because of their name or veiling practices. Further, this discrimination also varies according to the ethnicity of Muslim women, and is also found at the workplace, with one reason being the amount of time Muslims dedicate to prayer.[[267]](#footnote-268)

As mentioned earlier, Muslim women are the most affected by hate crimes and they are more likely to be targeted if they wear the hijab, niqab or burqa.[[268]](#footnote-269) Data from 2014 provided by Tell MAMA, confirms this affirmation, with 54 per cent of offline anti-Muslim hate crimes directed at women.[[269]](#footnote-270) The Tell MAMA report further shows that most perpetrators are men (78 per cent, the majority white British), and a high rate of verbal abuse and hate speech online (82 percent), including half of these instances referring to the far right through verified links and slogans.[[270]](#footnote-271)

Examples of cases of hate crimes against Muslim women include verbal abuse with reference to current Middle East issues covered by the media, such as ISIS, the Israel/Palestinian conflict and child sexual exploitation, condemning them as responsible for these atrocities.[[271]](#footnote-272) However, attacks escalate to spitting in their faces[[272]](#footnote-273) and physical violence,[[273]](#footnote-274) including rape and murder.[[274]](#footnote-275) According to media searches and the Women’s Aid Femicide Reports, three to four Muslim women have been murdered each year since 2015. Muslim Women Network UK (MWNUK) online research showed that at least ten Muslim women were murdered in 2014.[[275]](#footnote-276)

Attacks in social media vary from general hate speech and engagement on Islamophobic and racist discussion to direct targeting and harassment of users.[[276]](#footnote-277) However, the problem of under-reporting of anti-Muslim hatred must be considered when viewing this data.[[277]](#footnote-278) The reasons behind this are many, including a lack of awareness of reporting mechanisms or that hate crimes are punishable, or victims feeling that reporting is not worth the risk of alienation and embarrassment when police fail to obtain positive outcomes against perpetrators.[[278]](#footnote-279) This is reflected in the frequency of hate crime reporting, with and 11 per cent decrease in 2014.[[279]](#footnote-280)

A 2019 study on Muslim Women’s experiences of the criminal justice system conducted by MWNUK, corroborates the reasons behind this problem, as well as identifying discriminatory conduct from police due to lack of understanding of Muslim women’s cultural and religious context.[[280]](#footnote-281) The studies key findings include: Poor standards of investigation;[[281]](#footnote-282) lack of police flexibility to allow reporting of crime on someone’s behalf on serious crimes such as sexual assault, when in many cases women lack the courage to report this kind of crimes without support;[[282]](#footnote-283) victims not being kept informed after reporting a crime to the police, including a lack of information during the prosecution process;[[283]](#footnote-284) poor quality of legal representation;[[284]](#footnote-285) police not recognising safeguarding concerns, including with regards to risk factors such as honour based abuse,[[285]](#footnote-286) those associated with forced marriages,[[286]](#footnote-287) domestic abuse, harassment and stocking, even if guidelines exist for all of these situations, and; police not recognising that women offending may be driven by domestic abuse.[[287]](#footnote-288)

Many of these discriminatory behaviours are also experienced by white women (lack of information on procedure, not recognising domestic abuse).[[288]](#footnote-289) However, Muslim women and girls experience further disadvantages because of their faith and ethnicity. Racial disparities in the criminal justice system were highlighted by the Prison Reform Trust and Lammy Review, showing an increase in the proportion of Muslim Women in custody from 5.2 per cent to 6.3 per cent over three years since March 2014.[[289]](#footnote-290) Additionally, comparing data from ethnic minorities of Muslim majority against white women: in 2015, 45 per cent of Asian women receiving convictions did not have previous convictions, compared to 12 per cent of white women.[[290]](#footnote-291) In 2016, 28.6 percent of Asian women received custodial or suspended sentences against 17.5 percent of white women; black women were determined to be 25 percent more likely than white women to receive a custodial sentence if convicted.[[291]](#footnote-292)

**Review on India**

**Demographic Landscape**

Islam is the second-largest religion in India, making up 14.2% of the country’s population of approximately 1.37 billion people. Around 201 million identify as Muslims in India, the majority of them (over 85%) belonging to the Sunni branch and the remainder belonging to Shi’a and various other sects.[[292]](#footnote-293) This makes India the country with the largest Muslim-minority population.

Indian Muslims do not form a homogeneous group and are divided by language, ethnicity, culture and economic position. Muslims form a majority in Kashmir, while in other states they are in a minority. The largest Muslim communities are in the states of Uttar Pradesh, Bihar, West Bengal and Kerala. In northern India, most Muslims speak Urdu, which is not recognized as an official language in India.[[293]](#footnote-294)

**Legal Framework**

1. Constitutional laws

The preamble of the Indian Constitution sets it out to be a secular democracy. The Constitution provides for the freedom of conscience and the right to freely profess, practise and propagate religion subject to public order, morality and health.[[294]](#footnote-295) It prohibits any kind of discrimination based on religion,[[295]](#footnote-296) and guarantees the right of religious communities to establish religious institutions and manage their own affairs.[[296]](#footnote-297)

The Constitution also sets out certain protection of minority groups in India, although it does not specify which groups would fall under minorities.[[297]](#footnote-298) The federal law, however, grants minority status to Muslims.[[298]](#footnote-299) Minority status makes these groups eligible for several government assistance programs. The Constitution guarantees the right to equal treatment and equal protection of the law to all.[[299]](#footnote-300) It also assigns a duty for the citizens to promote harmony and the spirit of common brotherhood amongst everyone transcending religious diversities.[[300]](#footnote-301)

1. Statutory laws

Most Indian states (24 out of 29) apply a restriction or a ban on cow slaughter, on the basis that cows are considered to be sacred in Hinduism. Penalties vary between states and could lead to a fine, imprisonment, or both. In some states such as Rajasthan, Punjab, Haryana, Himachal Pradesh and Jammu and Kashmir, those found guilty could face imprisonment for up to ten years. In Gujarat, offenders could face a minimum 10-year sentence to a maximum of life imprisonment for killing cows, selling beef or illegally transporting cows or beef. In some states, the ban does not just concern cows, but also bulls and buffaloes, and extends to not just slaughter, but also possession of meat.[[301]](#footnote-302) The ban affects Muslim community severely and disproportionately, as they often work in the cattle transportation and beef industries, and depend on beef as a critical source of food and income. Animal slaughter is also seen as an essential practice for the Islamic festival Eid-ul-Adha.[[302]](#footnote-303)

As of 2018, eight states - Arunachal Pradesh, Odisha, Madhya Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, and Uttarakhand - have enforced Freedom of Religion Acts or “anti-conversion” laws meant to regulate religious conversions by banning conversion by use of force, inducement, or any fraudulent means. However, these laws have been disproportionately imposed on minorities.[[303]](#footnote-304) According to the U.S. Commission on International Religious Freedom (USCIRF), ‘these laws, [...] generally require government officials to assess the legality of conversions out of Hinduism only’.[[304]](#footnote-305) Report by the Law Library of Congress points out that the laws create a hostile environment for religious minority communities because they do not require any evidence to support accusations of wrongdoing.[[305]](#footnote-306)

The Foreign Contribution Regulation Act (FCRA), a law regulating monetary donations to civil societies and NGOs in India, has negatively affected religious organizations. USCIRF states that the government uses FCRA to block funds to hamper the activities of NGOs that question the government or its policies. Rules on the registration of foreign-funded nongovernmental organizations have been discriminatorily implemented against religious minority groups. FCRA has been imposed in instances where human rights activists were campaigning to seek criminal charges against government officials involved in anti-Muslim riots.[[306]](#footnote-307)

In December 2019, the government passed the Citizenship Amendment Act (CAA).[[307]](#footnote-308) CAA seeks to grant citizenship for refugees from Pakistan, Bangladesh and Afghanistan - but not if they are Muslim. CAA is said to be the first step taken by the government to create a national register of citizens. If such a register is created, it could lead to the statelessness of millions of Indian Muslims, as people often lack official documents proving their citizenship. This is seen as an attempt to marginalise the Muslim community in India. The passing of CAA has prompted protests and outrage across the country. A number of Indian States have refused to apply the law locally and several opposition parties have issued a joint demand to suspend the law.[[308]](#footnote-309) The United Nations High Commissioner for Human Rights Michelle Bachelet recently filed an intervention application in the Supreme Court over the Act.[[309]](#footnote-310)

1. International Obligations and Treaty Commitments

India is a party to the core international human rights law treaties, including International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

USCIRF has stated that some of India’s constitutional provisions and state and national laws do not comply with international standards of freedom of religion or belief, including Article 18 of the UN Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights.[[310]](#footnote-311)

1. Judgments

The judiciary, exemplified by the Supreme Court of India, has recently decided several cases protecting the rights of religious minorities. In 2018, while ruling on the rise in mob attacks and cow vigilantism, it said, ‘Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency.’[[311]](#footnote-312) The Court ordered central and state governments to broadcast on radio and television that ‘lynching and mob violence of any kind shall invite serious consequence under the law.’[[312]](#footnote-313) It proceeded to issue mechanisms to be established by state governments to prevent mob violence, which included assigning senior police officers to deal with violence and compensation to victims.[[313]](#footnote-314) Human Rights Watch reports that so far, several states have designated officers to address mob violence. However, most of the court’s directives have not been complied with and most states have not filed compliance reports.[[314]](#footnote-315)

In November 2019, the Supreme Court ruled that a disputed religious site in Ayodhya, where a mosque used to stand, belongs to Hindus. The area has been under dispute since 1992, when a 16th century mosque was demolished by Hindu mobs who were claiming that the area is a holy site for Hindus. There are fears that this development will bring about a larger normalization of violence against Muslims.[[315]](#footnote-316)

**Implementation of Law and Challenges in Practice**

1. Institutional Structure

The ruling Bharatiya Janata Party (BJP) pursues right-wing Hindu nationalist politics, which seeks to make India a Hindu state based on Hindu values. Since the government took power in 2014, there has been a surge of religiously motivated violence, discrimination and anti-Muslim rhetoric in the country. This has been accompanied by high-level government officials making anti-Muslim statements and the Prime Minister Narendra Modi being reluctant to condemn the attacks. There is an overall failure of authorities to investigate attacks against religious minorities. This has contributed to growing tensions between religious groups and led to insecurities felt by the Muslim community in India.

USCIRF reports that both the federal and state governments have done little to condemn hate speech, even if it incites violence. Their 2019 report points out that the state action to rename several cities - such as Faizabad and Allahabad from the names that had been given during the Mughal period - has been seen as an effort to erase the influence of non-Hindus in Indian history and as an attack on Indian Muslims today.[[316]](#footnote-317)

The National Commission for Minorities (NCM), set up in 1992 as a statutory body, investigates allegations of religious discrimination in India. They have a mandate to evaluate the progress of the development of minorities, monitor the work of safeguards provided for the minorities, look into complaints by individuals, conduct and undertake studies on discrimination, suggest appropriate measures to the government and make periodical and special reports to the government regarding minorities.[[317]](#footnote-318) The National Human Rights Commission of India and The Ministry of Minority Affairs may also conduct investigations. However, these bodies have no enforcement powers.[[318]](#footnote-319)

**Religious Landscape**

1. Manifestations of Anti-Muslim Hatred

In recent years, there have been reports of harassment and violent attacks against Muslims by Hindu nationalists, including BJP members. Muslims have reported that they have been accused of being terrorists and spying for Pakistan, kidnapping and marrying Hindu women and disrespecting Hinduism by slaughtering cows. Muslims have been beaten and forced to chant Hindu slogans.[[319]](#footnote-320) It has been said that members of the Muslim community rarely report abuses, as there is a societal and police bias in the country.[[320]](#footnote-321) Police authorities tend to not investigate the crimes properly, by stalling investigations and ignoring procedures.[[321]](#footnote-322)

Human Rights Watch points out that despite the growing intolerance against religious minorities, the government does not collect credible data on hate crimes in accordance with international human rights standards. Despite this, different organisations have been collecting data, though they could be largely underestimating the number of cases.[[322]](#footnote-323) Hate Crime Watch documented 254 reported incidents of crimes targeted against religious minorities from 2009 to 2018, in which at least 91 persons were killed and 579 were injured. Muslims were victims in 62 percent of the cases.[[323]](#footnote-324)

*1.1. National Register of Citizens*

The National Register of Citizens (NRC) is a register containing the names of Indian citizens in the border state of Assam.[[324]](#footnote-325) Originally created in 1951 to keep track of citizens of India and identify immigrants from neighbouring Bangladesh, it recently went through a reform that imposed stricter standards of proof on citizens. The government published a new list of citizens in August 2019 which excluded nearly two million people. Many of them, born in Assam and having been there for generations, are now facing statelessness and deportation. The government of Assam is now building detention centers for those who are denied citizenship.[[325]](#footnote-326) There are widespread concerns that the updated NRC was targeted against Muslims, as the Muslim community was the most severely affected. The process also disproportionately affects women, as they often lack access to necessary documents.[[326]](#footnote-327) The government is planning to implement the NRC nationwide. This has been seen as an attempt to discriminate Muslims in the country.[[327]](#footnote-328)

*1.2. The North East Delhi Riots*

On 23 February 2020, communal violence broke out in Delhi, lasting seven days. The riot started in response to months-long peaceful protests against the Citizenship Amendment Act. At least 53 people died during the seven-day riots, the majority of them Muslim,[[328]](#footnote-329) and thousands were wounded or displaced. The riots were started by Hindu mobs, targeting the Muslim community. The police, under the direct control of the BJP-ruled central government, did not respond to the attacks, and in some instances, even participated in the violence.[[329]](#footnote-330)

Muslims were shot and burned alive in their homes, their households were destroyed, leaving them displaced.[[330]](#footnote-331) Mosques were set on fire, several Muslim-populated areas were attacked,[[331]](#footnote-332) and Muslim-owned commercial enterprises were vandalised.[[332]](#footnote-333) Perpetrators were stopping men on streets, forcing them to show their ID-cards to prove their Muslim identity - if they refused, victims were forced to remove their pants to show whether they were circumcised per Muslim custom.[[333]](#footnote-334) In the aftermath of the riots, displaced Muslims have spoken of their fear to return home.[[334]](#footnote-335)

*1.3. Cow-Related Violence*

While a ban on cow slaughter has a long history in India, there is a new phenomenon of ‘cow protection’ mobs. These groups, armed with weapons, patrol streets and attack people transporting cattle or possessing beef.[[335]](#footnote-336) It is mostly Muslims who are affected. USCIRF documented 44 deaths and approximately 300 injured between 2015 to 2018.[[336]](#footnote-337) Human Rights Watch reports that 50 people have been killed and over 250 people have been injured over cow-related attacks between May 2015 to the end of 2019.[[337]](#footnote-338)

In most cases of violent attacks over cows documented by HRW, the alleged assaulters were part of local cattle protection committees affiliated with Hindu extremist groups. Leaders of the ruling party BJP have made statements about the need to protect cows, instead of condemning attacks on Muslims. Policies and statements by officials help to fuel abuses by cow protection groups, who believe they can act with impunity.[[338]](#footnote-339)

*1.4. Interfaith Marriage*

Radical Hindu groups have started describing interfaith marriages between Hindus and Muslims as ‘love jihad’. They accuse Muslim men of being part of a conspiracy to convert Hindu women to Islam by seduction. By calling it ‘rescue operations’, they forcibly separate couples and reportedly deploy right-wing lawyers to identify registered inter-religious marriages between Muslim men and Hindu women. The U.K. Home Office reports that these groups have acknowledged making false accusations of rape and kidnapping against Muslim men, and have benefitted from legal and political backing, having strong links with the police and certain political actors.[[339]](#footnote-340)

In 2017, the High Court of Kerala annulled a marriage between a Muslim man and an originally Hindu woman who had converted to Islam. The Court determined that she had been a subject to an organized coercion campaign. The Supreme Court of India set aside the decision in 2018 and upheld the marriage after establishing that she had freely granted consent. The case prompted India’s National Investigation Agency (NIA) to open an investigation into the existence of a coordinated campaign to force women to convert. After the investigation, NIA concluded that there was no evidence of such a campaign.[[340]](#footnote-341)

 *1.5. Housing*

The UN Special Rapporteur’s 2017 report on adequate housing identifies discrimination against Muslims in housing that manifests in different ways throughout the country. The Special Rapporteur noted that landlords, brokers and property dealers often refuse to rent housing to Muslims, or impose unfair conditions on them. This has reportedly led to Muslims in some parts of the country being forced to leave their neighbourhoods and move to Muslim-populated areas in informal settlements. From a visit to one such settlement, the Special Rapporteur noted that the ‘conditions were extreme owing to overcrowding, the absence of sanitation facilities and electricity and the lack of garbage collection.’[[341]](#footnote-342)

1. Gendered aspects of discrimination

Women in India continue to be targets of honor killings and sexual violence along religious lines.[[342]](#footnote-343) However, there seems to be a lack of research into how this affects Muslim women particularly. Despite this, there is proof that Muslim girls and women in India are targeted due to their religion, as there have been cases of rape motivated by religious prejudice and encouragement of rape of Muslim women by BJP women’s wing leaders.[[343]](#footnote-344) It has been pointed out that issues such as right-wing chauvinism, denial of equal citizenship, misconceptions of Indian Muslims as anti-Indian or terrorist could contribute to the plight of Muslim women in India.[[344]](#footnote-345)

In July 2019, the Supreme Court criminalized the practice of ‘triple talaq’, a form of Islamic divorce that allows the husband to legally divorce his wife by pronouncing ‘talaq’ three times. The ban has mostly been welcomed by different women’s groups,[[345]](#footnote-346) however, others voice a concern over the timing of the judgment and see it as a further marginalisation of the Muslim community.[[346]](#footnote-347) Some women’s activists have pointed out that criminalising the practice, rather than banning it, could make Muslim women even more financially vulnerable, if former husbands are jailed.[[347]](#footnote-348)

Recently, the Supreme Court agreed to consider a petition to allow Muslim women into mosques. This could overturn a long practice of banning Muslim women from entering places of worship.[[348]](#footnote-349)

**Review on Iraq**

**Demographic Landscape**

Iraq is a Muslim majority country where over 95% of the population identifies as Muslim. Despite its Muslim majority, the country has been internally divided among sectarian lines, with approximately 64-69% of the population identifying as Shia and 29-34% of the Muslim population identifying as Sunnis.[[349]](#footnote-350) Along with Iraq’s recent history of armed conflict and foreign occupation by the United States and United Kingdom, the country has also been engaged in intra-group fighting among its Shia majority and Sunni minority populations dating back over 1,400 years. This sectarian conflict resulted from the death of the Prophet Muhammad and originated out of disputes regarding the claim to succession of leadership of the Muslim community.[[350]](#footnote-351) Despite sharing numerous common beliefs regarding a universal belief in a monotheistic God and the Prophet Muhammad, Iraq’s Shia and Sunni populations have substantial divergence in thought and belief with respect to religious practice, as well as how Islamic law should be applied, causing many Iraqi Sunnis to not even consider Shias to be Muslims.[[351]](#footnote-352) This sectarian conflict has manifested in the emergence of the Sunni Muslim militant group ISIS (the Islamic State in Iraq) advancing armed combat against the Shia Muslim-led Iraqi government and Shia militias.[[352]](#footnote-353)

 With respect to its ethnic populations, the Iraqi government has not recently published a demographic analysis of its ethnicities. The most recent analysis dates back to 1987 and indicates that the Muslim community is comprised of Iraq’s predominantly Arab and Kurdish populations, with a minority population that includes Turkmen, Yezidi, Shabak, Kaka'i, Bedouin, Romani, Assyrian, Circassian, Sabaean-Mandaean, Persians.[[353]](#footnote-354)

**Legal Framework**

1. Constitutional laws

Following the occupation of the United States and the United Kingdom in Iraq, and the creation of the Law of Administration for the State of Iraq for the Transitional Period, the Transnational government created a Constitutional Assembly to draft a new Constitution that was approved by way of referendum in October of 2005. From the outset of its preamble, the Constitution of 2005 acknowledges that its sectarian conflict inspired the creation of a ‘new Iraq, the Iraq of the future, free from sectarianism, racism, complex of regional attachment, discrimination, and exclusion.’[[354]](#footnote-355) Article 14 also sets forth the country’s commitment to non-discrimination and states that: ‘Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.’[[355]](#footnote-356)

With respect to the recognition of a national religion, Article 2 of the Constitution establishes Islam as the national religion of Iraq and states that Islam is also ‘a foundation source of legislation.’ As such, ‘[n]o law may be enacted that contradicts the established provisions of Islam.’[[356]](#footnote-357)

With respect to the free exercise of religion, Article 2.2 ‘guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandean Sabeans.’[[357]](#footnote-358) Each individual is also entitled to their freedom of conscience and belief, as well as to their personal status in accordance with their religion, sect, or belief.[[358]](#footnote-359) Article 10 of the Constitution guarantees the free exercise of religious practices and rituals at the holy shrines and religious sites in Iraq, as well as Article 43.1 protects places of worship.[[359]](#footnote-360)

 With respect to religious sectarianism, the Constitution seeks to address the conflict within the Shia and Sunni communities by specifically addressing sectarian violence. Article 7 of the Constitution states:

Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleansing, especially the Saddamist Ba'ath in Iraq and its symbols, under any name whatsoever, shall be prohibited. Such entities may not be part of political pluralism in Iraq. This shall be regulated by law.[[360]](#footnote-361)

 Notwithstanding the freedoms and protections enshrined within the Constitution, many regard the Constitution as ineffective due to its quick drafting, its ignorance of the history of the Iraqi state and Iraqi identity, and its influence based on the political interests of the United States and foreign powers.[[361]](#footnote-362) The Constitution also refers to religious ‘sects’ to the first time, which was intentionally avoided in previous constitutions in an attempt to promote a unified identity among the Iraqi people.[[362]](#footnote-363)

1. Statutory laws

Under Iraq’s Personal status laws, non-Muslims are permitted to convert to Islam. However, the law does not provide recognition of Muslims that convert to another religion.[[363]](#footnote-364) The Personal status laws also requires that minor children be designated as Muslim within their national identification if one of the parents converts to Islam, thus hindering children from choosing their own religious beliefs as adults.[[364]](#footnote-365) Additionally, Iraq’s penal code also prohibits the religious practices of certain religious minorities, including the Wahhabi branch of Sunni Islam.[[365]](#footnote-366) To date, Iraq has failed to implement effective legislation to protect victims of domestic violence. In fact, paragraph 398 prohibits sexual assault, but permits charges to be dropped if the victim and the assailant enter into marriage.[[366]](#footnote-367) Further, paragraph 401 of its penal code permits any person who commits an ‘immodest act’ up to six months of prison, which could be used to target gender minorities within the state.

1. International Obligations and Treaty Commitments

Iraq’s Constitution states that a principle of governance is that it shall respect its international obligations.[[367]](#footnote-368) Iraq is a party to the core international human rights law treaties, including International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Beyond treaty obligations, the Constitution of Iraq also states that Iraq ‘is a founding and active member in the Arab League and is committed to its charter, and it is part of the Islamic world.’[[368]](#footnote-369)

**Implementation of Law and Challenges in Practice**

1. Institutional Structure

One of the largest obstacles to the Iraq’s ability to recognize the freedom of religious belief and practice of its Muslim Shia and Sunni populations is the political instability due to foreign occupation, intra-group fighting, and armed conflict within the country over the last fifteen years. More recently, the Sunni militant Islamic State has systematically carried out campaigns of violence against Iraq’s Shia population, which falls within the definition of genocide to the nature and scope of the targeted attacks.[[369]](#footnote-370)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred

In the midst of Iraq’s sectarian violence, the use of social media platforms to create and circulate sectarian-based hate speech is on the rise in Iraq.[[370]](#footnote-371) The most morbid example of hate speech has been proliferated through the Islamic States’ posting of videos of beheadings as a means of propaganda. Other aspects of sectarian hatred among Iraq’s Shia and Sunni populations includes a policy of systematic violence aimed at permanently destroying, suppressing, or expelling Shia communities under the control of the Islamic State. Along these lines, there has been an increasing number of abductions, murders, rapes, slavery and trafficking of women and children by the Sunni militant group ISIL, forced recruitment of children by ISIL, destruction of places of religious or cultural significance, looting, and the denial of fundamental freedoms.[[371]](#footnote-372)

 Additionally, the over three years of fighting the Islamic State has left millions of Sunnis displaced within the country, and those that have returned to their hometowns are still seeking adequate funds and attention from the Shiite-majority government to rebuild their local communities.[[372]](#footnote-373) As the Shiite-led national military has responded to ISIL’s violence and has successfully driven out the Islamic State from many of the county’s larger city centers, many remaining Sunnis face fierce persecution by the Shiite militia.[[373]](#footnote-374) The Sunni population has faced increased discrimination, harassment, and violence from other ethnic and religious groups under accusations of being affiliated with ISIL.[[374]](#footnote-375) Because of this, many Sunnis fear that the Shiite-led government will not protect them from persecution, and would even use allegations of connection to ISIL to further persecute them, without due process protection or amnesty laws.[[375]](#footnote-376) Human Rights Watch has noted in its recent annual report that Sunnis face arbitrary detention from security forces without a court order, arrest warrant, or official document justifying arrest.[[376]](#footnote-377) The Sunni population also faces the threat of forced disappearances under the guise of counter-terrorism operations. The Iraqi government has failed to address these concerns or provide information on the status of the disappeared individuals.[[377]](#footnote-378)

1. Gendered aspects of discrimination

Since the United States’ intervention in Iraq in 2003, the promotion and protection of fundamental freedoms of women in Iraq has not progressed. The extensive sectarian conflict has resulted in serious violations of international humanitarian law and international human rights law, especially with respect to the rights and freedoms of Iraqi women. The UN High Commissioner for Human Rights has reported concern over the presence of systematic violence, abductions, rapes, slavery and trafficking of women and children by the Sunni militant group ISIL.[[378]](#footnote-379) There is also a systematic pattern of forced marriage by ISIL fighters with the threat of execution or imprisonment.[[379]](#footnote-380) In fact, a 2009 report of published by Oxfam reported that over half of the women interviewed experienced a form violence, whether in public spaces, sexual violence, or domestic violence.[[380]](#footnote-381) To date, the Iraqi government has failed to implement or adequately enforce any form of legal protections for women that are victims of domestic violence.[[381]](#footnote-382)

Young girls within the region are also vulnerable to gendered-base violence and discrimination. In 2014, the UN Committee on the Rights of the Child (‘CRC’) published a list of issues for the Iraqi government to address, including the State’s measure to address the “honor” killing of young girls, and to address the report that children in custody were frequently victims of torture and ill treatment, including sexual abuse.[[382]](#footnote-383) While the government issued follow-up reports a year later on this situation, the CRC noted that the Iraqi government still failed to initiate comprehensive policies that addressed the vulnerable state of young girls, such as the root causes of issues such as child prostitution and trafficking.[[383]](#footnote-384)

Women are also particularly vulnerable to the secondary effects of ISIL’s violence, which entails the lack of access to food, water or medical care by the large number of people that have been trapped or displaced in areas under the control of ISIL.[[384]](#footnote-385) The UN Women Regional Office for Arab States published a paper asserting that ‘women and girls have however experienced restrictions to their daily liberty and personal freedoms and endure challenges to meeting their basic needs, personal security and potential for broader public leadership roles and employment.’[[385]](#footnote-386) Sunni women also face threats of violence for participating in spheres of public life. One example includes threats of violence to women seeking careers outside of the home, and results in lack of employment opportunities and access to income.[[386]](#footnote-387) Additionally, the growing number of widows has resulted from the sectarian violence, and they also increasingly lack access to financial support or pensions.[[387]](#footnote-388) As a result of the conditions of discrimination against women in the region, the UNHCR has considered that women and girls with certain profiles or in specific circumstances may be in need of international refugee protection, especially those that are members of minority religious or ethnic groups or those wrongly perceived to be supporting the Islamic State.[[388]](#footnote-389)

1. The use of technology to perpetuate hate speech

It has recently been reported that members of the Islamic State have used up-and-coming digital platforms and social media applications to disseminate beheading videos, hate speech and propaganda as a means of recruitment and rousing support.[[389]](#footnote-390) The use of technologically advanced applications poses a new risk in addressing the Islamic State’s recruitment initiatives.

Recent surveys have also demonstrated that activity of posting hate speech through social media platforms varies in response to regional episodes of violence between Shia militias and the Islamic State.[[390]](#footnote-391) In light of Iraq’s large Shia population, there has been a spike in anti-Sunni social media posts utilizing the poplar hashtags of ‘#Kufar (nonbelievers), #Iraq, #Daesh (a derogatory term for the Islamic State), #Wahhabi, #Salafi, and #Popular Mobilization,’ which are demonstrative of the Shia’s strong opposition to the Islamic State and their narrative’s effects on the proliferation of sectarian hate speech.[[391]](#footnote-392) In addressing concerns regarding the proliferation of hate speech and its effect on influencing the emergence of extremist terrorist organizations such as ISIL, the Secretary-General expressed concern that hate speech could be used as a tool used for ethnic cleansing.[[392]](#footnote-393)

**Review on Myanmar**

**Demographic Landscape**

Since its independence in 1948, the Republic of Myanmar (formally Burma) has struggled to make and maintain its commitments to the protection of many fundamental human rights and freedoms. Located in Southeast Asia along the borders of India, Bangladesh, China, Thailand and Laos, the country is divided into seven states predominantly based on ethnic identities: Chin, Kachin, Kayin (Karen), Kayah, Mon, Rakhine (Arakan), and Shan, and seven administrative divisions: Ayeyarwady (Irrawaddy), Magway (Magwe), Mandalay, Bago (Pegu), Sagaing, Taninthary (Tenasserim), and Yangon.[[393]](#footnote-394) While Myanmar recognizes the ethnic identities of its dominant Buddhist population, the country fails to account for the many ethnic and religious minorities located within its territory, including the Muslim Rohingya people.[[394]](#footnote-395) Due to the close tie between religion and recognized ethnic identity, the country has been plagued with widespread violence against the Rohingya people in the Rakhine State.[[395]](#footnote-396)

In 2016, the National League for Democracy (NLD) came into power and promised to institute a democratic transition from the country’s previous regime, where power was previously centralized in the military. Under its previous military control, the Burmese government was known for perpetuating extraordinary human rights violations, including: ‘arbitrary detention, forced displacement, land confiscation, sexual violence, and torture, as well as human rights abuses stemming from ethnic conflicts, environmental destruction, militarization, and more.’[[396]](#footnote-397) While many believed that the appointment of the NLD government would result in greater respect and protection for the fundamental rights and freedoms for all citizens within Myanmar, including its Muslim and minority populations, anti-Muslim discrimination is still prevalent within the government and throughout the country. In fact, anti-Muslim discrimination has increased due to the widespread use of technology and social media within the country.[[397]](#footnote-398)

**Legal Framework**

1. Constitutional laws

Looking to the rights that are guaranteed in the Constitution of the Republic of the Union of Myanmar (2008), Article 34 states that ‘[e]very citizen is equally entitled to freedom of conscience and the right to freely profess and practise religion subject to public order, morality or health and to the other provisions of this Constitution.’[[398]](#footnote-399)

However, the State recognizes the pre-eminence of Buddhism as the majority religion of the state:

361. The Union recognizes special position of Buddhism as the faith professed by the great majority of the citizens of the Union.

362. The Union also recognizes Christianity, Islam, Hinduism and Animism as the religions existing in the Union at the day of the coming into operation of this Constitution.

363. The Union may assist and protect the religions it recognizes to its utmost.

With respect to the Constitution’s commitment to non-discrimination, the Preamble paints a picture of Myanmar as a nation comprised of a united people that live together in ‘unity and oneness.’ The preamble then provides a condensed history of the country’s struggle for independence in 1948 and post-colonial efforts towards unity and lays out the government’s common commitments:

We, the National people, firmly resolve that we shall:

- steadfastly adhere to the objectives of non-disintegration of the Union, non-disintegration of National solidarity, and perpetuation of sovereignty;

- stalwartly strive for further burgeoning the eternal principles namely justice, liberty, equality and perpetuation of peace and prosperity of the National people;

- uphold racial equality, living eternally in unity fostering the firm Union Spirit of true patriotism;

- constantly endeavour to uphold the principles of peaceful co-existence among nations with a view to having world peace and friendly relations among nations.

Article 348 further contains Myanmar’s non-discrimination clause, ‘The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, *religion*, official position, status, culture, sex and wealth.’

Article 352 further holds that Myanmar is committed to the ethic of non-discrimination with respect to appointing its civil service personnel:

The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.

Notwithstanding this commitment, Myanmar has barred the country’s Muslim minority, the Rohingya, from participating within government positions since its 1962 coup d’état and the passage of its 1982 citizenship laws.[[399]](#footnote-400)

1. Statutory laws

In 2015, Myanmar passed its Protection of Race and Religion laws in an attempt to solidify the cultural and religious prominence of its majority Buddhist population.[[400]](#footnote-401) The legislation was backed by the country’s prominent anti-Muslim civil society organizations, including the Ma-Ba-Tha (the “Organization for the Protection of Race and Religion”) and the 969 Movement. The legislation includes the Population Control Health Care Law, the Religious Conversion Bill, the Myanmar Buddhist Women’s Special Marriage Bill, and the Monogamy Bill, which is recognized to disproportionally discriminate against ethnic and religious minorities, as well as women.[[401]](#footnote-402)

1. International Obligations and Treaty Commitments

While Myanmar has previously expressed its commitment to the UN Human Rights’ treaties, to date it has not signed or ratified most of the UN Core Human Rights Treaties. After much political pressure, Myanmar ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 6 October, 2017. In light of this, Myanmar is obligated to guarantee economic and social rights ‘without discrimination of any kind as to race, colour, sex, language, *religion*, political or other opinion, national or social origin, property, birth or other status.’[[402]](#footnote-403) Articles 11 & 12 of the ICESCR also requires Myanmar to ensure the right to an adequate standard of living, adequate food and housing, and the highest attainable standard of health.[[403]](#footnote-404)

Unfortunately, article 2.3 of the ICESCR permits Myanmar as a developing country to determine how to fulfil its obligations to non-nationals, which the state may argue limits the economic, social and cultural rights and freedoms guaranteed to the Rohingya.[[404]](#footnote-405) Following the ratification, Myanmar published a declaration stating that the right to self-determination within the article 1 of the ICESCR ‘does not apply to any section of people within a sovereign independent state and cannot be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of a sovereign and independent state.’[[405]](#footnote-406)

 Myanmar is also a party to the UN Convention on the Rights of the Child (CRC), which guarantees many of the same economic, social and cultural rights to children without the basis of discrimination.[[406]](#footnote-407)

Beyond treaty obligations, Myanmar is a member of the East Asia Summit, Non-Aligned Movement, ASEAN and BIMSTEC, but not a member of the Commonwealth of Nations.

1. Judgments

Historically, the Constitutional Court of Myanmar has been criticized for its lack of independence and its close ties to the country’s military regime. Following its rise to power in 1988, the SLORC abolished the Council of People’s Justices, the highest judicial institution established under Burma’s previous Constitution, and established its own non-independent Supreme Court.[[407]](#footnote-408) While the 2008 Constitution provides for the creation of a tribunal to adjudicate constitutional cases, the national judiciary is still bound to the executive branch of government and military control.[[408]](#footnote-409)

**Implementation of Law and Challenges in Practice**

1. Institutional Structure

As a formal British colony, Myanmar’s independence was met with substantial periods of political instability, including a military coup in 1962, that lead to military control over the government, followed by another coup in 1988 that resulted in a thirty-three year period in which the country was ruled by a military junta known as the State Law and Order Restoration Council (SLORC) and, between 1997 and 2011 as the State Peace and Development Council (SPDC).[[409]](#footnote-410)

One of the largest obstacles to Myanmar’s ability to amend its domestic legislation in compliance with generally recognized international human rights law standards is the fact that political power does not rest within its civilian population. In 2008 a constituent assembly completed the Constitution of the Republic of the Union of Myanmar, which came into effect on 31 January 2011. According to the 2008 Constitution, the civilian government of Myanmar is unable to make, amend, apply and execute laws applicable to all persons and institutions within the state. Instead, the Constitution provides for the State’s Defense Forces to maintain complete autonomy outside of the Civilian Government and to have supremacy over every branch of the civilian government.[[410]](#footnote-411) The Constitution further provides the military with guaranteed representation within parliament by allotting 25% of the seats, granting the military forces veto authority, as well as the ability to assume power in the time of national emergencies.[[411]](#footnote-412) Thus, the principle problem of human rights implementation in Myanmar is inherent in the structure of the government itself, which affects how the individual rights recognized in the Constitution are to be protected.

 Initially, local governments within Myanmar’s seven states and seven administrative divisions were set up in a similar fashion as the national assembly government, with an Executive Committee, local elections, and a Committee of Inspectors.[[412]](#footnote-413) Once military rule was established in 1988, the SLORC took control of the local governments by abolishing these bodies and establishing Law and Order Restoration Councils through the military.[[413]](#footnote-414)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred

Throughout the country’s history, the Rohingya people have faced discrimination and the denial of their fundamental rights and freedoms by the majority Buddhist Burmese government. Since the implementation of the 1982 citizenships law, Myanmar has categorically denied the recognition of the Rohingya people as Burmese citizens and denied their rights to citizenship.[[414]](#footnote-415) The Rohingya have been further obstructed from many rights and freedoms, including access to healthcare and education, the denial of the right to movement and the right to pursue a livelihood due to ethnic and religious based discrimination.[[415]](#footnote-416) Along with the Rohingya, minorities in the Kachin, Shan, Kayin Stateshave also expressed mistreatment and repression of rights from the Myanmar military.[[416]](#footnote-417)

In 2012, tensions between the Buddhist Burmese population and the Muslim Rohingya population reached a climax, as the Burmese security forces participated in campaigns of violence and riots against the Rohingya people, forcing thousands of Rohingya people to flee the Rhakine State to seek refuge in the neighboring country of Bangladesh.[[417]](#footnote-418) In August 2017, riots again broke out within the Rhakine State, leading to an ethnic cleansing of the Rohingya people, causing an estimated 745,000 people to cross the border from Myanmar into Bangladesh.[[418]](#footnote-419)  Despite the government’s promise of reparations and alleged welcome return of the Rohingya people, satellite imaging has demonstrated that large areas of homes have been bulldozed and military bases have been erected in their stead.[[419]](#footnote-420) Even worse, the government had a policy of forced starvation of the Rohingya people in place.[[420]](#footnote-421) The UN Human Rights Council has recognized the forcible displacement of the Muslim population to Bangladesh ‘has become the world’s fastest growing refugee crisis’.[[421]](#footnote-422)

1.1. Expressions of hate speech

According to U.S. State Department, State Officials have used social media platforms to create hate speech rumors in an effort to denigrate the Rohingya and Muslim citizens within the Rhakine State both in formal meetings, public speeches, and official settings.[[422]](#footnote-423) Such activity is has been prevalent by State officials through social media platforms, which has a direct effect on the discriminatory culture within Myanmar and leads to similar forms of hate speech being integrated into primary education textbooks.[[423]](#footnote-424)

Not only have disparaging social media posts against the Rohingya increased in both a non-official and official capacity by the government officials and citizenry of Myanmar, it is clear that the state sponsored media channels, such as the country’s longest running newspaper the *Global New Light of Myanmar* (GNLM)*,* have been at the forefront of propagating highly discriminatory views about the Rohingya people.[[424]](#footnote-425) Such discriminatory references include the categorization of Rohingya primarily as perpetrators of terror and a risk to national security.[[425]](#footnote-426) Further, the GNLM focused a substantial amounts of its reports on the ethnic conflicts between the government and the Rohingya, the country’s only ethnic minority comprised primarily of Muslims, despite the fact that the government is engaged with numerous conflicts with other ethnic minorities within its borders.[[426]](#footnote-427)

1.2 Unlawful detention of human rights advocates and lawyers

In light of the current ethnic struggle, multiple journalists and social activists have been illegally detained or imprisoned under Myanmar’s colonial-era Official Secrets Act after investigating the government’s illegal treatment and violence against the Rohingya.[[427]](#footnote-428) The journalists and social activists face unreasonably long prison sentences for their criticism of the ruling National League for Democracy, which Special Rapporteur Lee has found to be ‘a deeply worrying trend.’[[428]](#footnote-429)

1.3 Burning of mosques

One frequent form of religious discrimination is found in the form of the destruction and burning of Muslim worship sites. Since the forced departure of the Rohingya in 2012, there have been multiple occurrences of mobs and dissidents setting fire to Mosques and desecrating Muslim cemeteries throughout the country, with no legal or political action taken to hold the perpetrators accountable.[[429]](#footnote-430)

1. Gendered aspects of discrimination

Under Myanmar’s Protection of Race and Religion laws, the country has passed the Buddhist Women’s Special Marriage Bill, which requires Buddhist women to receive permission from local authorities prior to marrying a man from a different religion.[[430]](#footnote-431) While nationalistic groups have asserted that the purpose of the legislation is to protect poor women from exploitation from men of other religious affiliations.[[431]](#footnote-432) Along with the interfaith marriage legislation, the Protection of Race and Religion laws also have three other laws on the issue of population control permitting local authorities to require married couples to space out the birth of their children up to 36 months, as well as legislation against religious conversion, and a Monogamy Bill that criminalizes polygamy and prohibits extramarital affairs.[[432]](#footnote-433) These bills have no prohibition against discrimination and disproportionality affect women from religious and ethnic minority groups.

Despite the discriminatory effect of these laws against women and religious minorities, many MPs and nationalist organizations assert that the laws were implemented to protect women in Myanmar. In fact, some MPs have asserted that the laws would protect Muslim women, as the Rohingyas in the Rhakine State have any wives and women are often forced to convert religions.[[433]](#footnote-434) One obstacle to repealing these fundamentally discriminatory laws is that they receive widespread support within the country, even among women’s groups.[[434]](#footnote-435) This is partly to do with the fact that Myanmar’s recent democratization has opened up a desire for self-rule and a desire to establish cultural and ethnic hegemony. For the Buddhist majority the Protection of Race and Religion laws lends support for establishing a sense of a national identity by exploiting Myanmarese women’s insecurities and uncertainties with respect to their national identifies by fostering a false narrative against its religious and ethnic minorities.[[435]](#footnote-436)

In May 2012, a group of Muslim men committed an act of gang rape against a young, twenty-six year old Buddhist girl living within the Rhakine State named Ma Thida Htwe.[[436]](#footnote-437) Because of the rape and the fact that the men mutilated her body, a series of riots broke out within the Rhakine State resulting in the death of over 200 Rohingya persons and thousands of Rohingya being displaced.[[437]](#footnote-438) Because of the critical response from civil society organizations and the international community against the Burmese, many Buddhist women within Myanmar perceive that the issue of their personal security and safety is not being taken seriously. This also explains why many Burmese women have expressed a willingness to support the discriminatory Protection of Race and Religion laws, as they see the laws as providing viable means of protection.[[438]](#footnote-439)

Despite the internal perception within Myanmar, it has been well documented that the religious conflict within the Rhakine State has most affected Rohingya women, many of whom are refugees that face many complications due to their displacement. These complications include deciding whether to flee the country and leave behind family and children, the threat of entering forced marriages to pay for travel across the border, as well as the threat of coercion and sexual violence within refugee camps.[[439]](#footnote-440) For the women that remain within the Rhakine State, they still face discrimination in the form of restrictions on travel, birth, and marriage, and restrictions on property ownership, including land confiscation and forced relocation.[[440]](#footnote-441) Ultimately, the entrenched stereotypes against Myanmar’s Muslim minority has led to an increase of discrimination and violence against Muslim women in violation of the Burmese Constitution, international norms and obligations.

1. The use of technology to perpetuate hate speech

Myanmar’s access to the internet and mass media outlets is a relatively new commodity, as the previous military government placed a censor on foreign and democratic media deemed sensitive by the authorities.[[441]](#footnote-442) With increased access to cellular phone technology and social media platforms at the same time as democratic and foreign press platforms, many of its citizens first experience accessing non-censored information came through accessing the internet by way of personal mobile phones.[[442]](#footnote-443) Thus, the confluence with social media and traditional media outlets is thought to have led to an uncritical acceptance of news provided by way of informal social media platforms.[[443]](#footnote-444)

Due to surmounting complaints of hate speech disseminated through social media, the CEO of Facebook, Mark Zuckerberg, appeared before the U.S. Congress promising to hire an influx of Burmese speaking analysts to conduct an internal investigation with respect to the use of hate speech against the Muslim population in Burma. Not only is hate speech prolific on Facebook, it is widely understood that the social media platform has not developed a viable way to recognize and remove discriminatory and racists posts made against the Muslim minority population within Myanmar.[[444]](#footnote-445) Reuters conducted an independent investigation of the anti-Muslim hate speech in on Facebook from citizens within Myanmar, which revealed over a 1,000 posts, comments and pornographic images directly attacking the Rohingya people that had not been flagged or removed by Facebook.[[445]](#footnote-446) The UN Special Rapporteur on the situation of human rights in Myanmar Ms. Yanghee Lee has called for the government of Myanmar to enact legislation in compliance with international legal standards that seeks to counter the incitement violence and discrimination.[[446]](#footnote-447)

**Review on Pakistan**

**Demographic Landscape**

Pakistan is currently the sixth most populous state in the world and, after Indonesia, the second largest Islamic state.[[447]](#footnote-448) 95% of the population is Muslim (75% Sunni and 25% Shia). The country is home to the second largest Shia population after Iran. Groups composing 5% of the population or less include Hindus, Christians, Parsis/Zoroastrians, Bahais, Sikhs, Buddhists, Ahmadis, and others.[[448]](#footnote-449)

There are no reliable statistics on the number of Ahmadis in Pakistan. According to data provided by the National Database Registration Authority (NADRA), cited by The Express Tribune in March 2018, there were just over 167,000 Ahmadis registered in Pakistan.[[449]](#footnote-450) Other reports estimates that this amount varies from between 500,000 to 800,000[[450]](#footnote-451) .

**Legal Framework**

1. Constitutional Laws

The Constitution normally restricts the freedom of religion and expression in Pakistan. Article 2 of the Constitution establishes Islam as the state religion, and it requires that laws should be consistent with Islam.[[451]](#footnote-452) Article 20 establishes the right to freedom to profess religion and to manage religious institutions and states that "subject to law, public order, and morality, every citizen shall have the right to profess, practice, and propagate his religion".[[452]](#footnote-453) At the same time, Article 19 provides the right to freedom of speech. However, it states that this right is "subject to any reasonable restrictions imposed by law in the interest of the glory of Islam."[[453]](#footnote-454)

Additionally, the second amendment to Pakistan’s Constitution prohibits Ahmadiyya Muslims from self-identifying as Muslims by stating that “a person belonging to the Christian, Hindu, Sikh, Buddhist, or Parsi community, a person of the Qadiani group or the Lahori group (who call themselves Ahmadis), or a Baha’i, and a person belonging to any of the scheduled castes” is a “non-Muslim.”[[454]](#footnote-455)

1. International Obligations and Treaty Commitments

Pakistan has ratified the core international treaties such as International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and others[[455]](#footnote-456).

The UN Human Rights Committee in its Concluding Observations 2017 expressed its concerns that the rights enshrined in the Covenant are not given full effect in the domestic legal order and that courts have, in certain cases, proved reluctant to apply the Covenant. [[456]](#footnote-457)

1. Statutory Laws

*3.1. Blasphemy laws*

Section 295 of the PPC sets out the Blasphemy laws. Section 295c notes that: ‘Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.[[457]](#footnote-458). These laws are so open to abuse and are disproportionately used to target religious minorities, members of minority faiths are unable to practice openly and freely without fear of persecution.[[458]](#footnote-459)

A report published by the International Committee of Jurists (ICJ), noted that ‘The vague wording of section 295-C has particularly affected members of the Ahmadiyya community. In some cases, judges have interpreted the expression of religious beliefs by Ahmadis, as understood by the court, as a form of blasphemy.’ The report further noted that ‘[…] the vague wording of the charge, has also led to the violation of a range of fair trial rights, including the right to the presumption of innocence.[[459]](#footnote-460)

These laws are also misused to settle personal scores and target Shia Muslims. In June 2017, a Shia Muslim was sentenced to death after allegedly making blasphemous remarks on social media, the first time that the death penalty has been imposed for blasphemy on the internet.[[460]](#footnote-461)

However, according to the report of Freedom House, Shia Muslim do not appear to face the same degree of discrimination as the others when it comes to the blasphemy laws.[[461]](#footnote-462)

*3.2. Discriminatory Laws against Ahmadi Muslims*

1. *The Pakistan Penal Code*

In 1984, Ordinance XX was accepted ‘to amend the law to prohibit the Qadiani group, Lahori group and Ahmadis from indulging in anti-Islamic activities.’[[462]](#footnote-463) The Pakistan Penal Code (PPC) was amended under the ordinance to include Articles 298b and 298c, commonly referred to as the ‘anti-Ahmadi laws’.[[463]](#footnote-464) These Articles prevented Ahmadis from:

* Calling themselves Muslims, either directly or indirectly;
* Referring to their faith as Islam;
* Preaching or propagating their religious beliefs;
* Inviting others to accept Ahmadiyya teachings by words, either written or spoken, or by visible representations;
* Insulting the religious feelings of Muslims;
* Calling their places of worship ‘mosques;
* Worshipping in non-Ahmadi mosques or public prayer rooms;
* Performing the Muslim call to prayer;
* Using the traditional Islamic greeting in public;
* Publicly quoting from the Quran;
* Displaying the basic affirmation of the Muslim faith.[[464]](#footnote-465)

The punishment for violation of these provisions is imprisonment for up to three years and a fine.[[465]](#footnote-466)

The Human Rights Committee (HRC) stated that, ‘The law clearly states that Ahmadi Muslims cannot preach or propagate their faith. This is beyond doubt and dispute. This makes the Ahmadiyya Muslim Community unique in Pakistan as being the only religious community in Pakistan to be targeted by the state simply on grounds of faith…. This legislation is used by non-state actors to threaten and harass Ahmadis”[[466]](#footnote-467)

1. *Passports and identity cards*

A person’s religious affiliation must be declared when applying for a passport and/or national identity card[[467]](#footnote-468). When applying for a passport or identity card, those wishing to be listed as Muslims must sign a declaration denouncing the Ahmadiyya Muslim prophet. This effectively prevents Ahmadi Muslims from obtaining legal documents and puts pressure on them to deny their beliefs in order to enjoy citizenship rights, including the right to vote[[468]](#footnote-469).

1. *Electoral list*

Ahmadis are excluded from the electoral system. Election Act 2017 of Pakistan Ahmadis requires Ahmadis to register as a separate category by declaring themselves as non-Muslims[[469]](#footnote-470). If anyone raises an objection against a particular voter identifying them as non-Muslim, the election commission can summon the person and ask that they declare they are not Ahmadi or be put on a supplementary special ask that they declare they are not Ahmadi or be put on a supplementary special voter list[[470]](#footnote-471).

**Institutional structure**

Shi’a are well represented in parliament and regularly contest elections for mainstream political parties while the legislation restricts Ahmadi’s fundamental right to vote in Pakistan. The Pakistan People’s Party has had several high-profile Shi’a leaders.[[471]](#footnote-472)

A wide range of reports note the growing religious intolerance of government in recent years. However, political leaders are reluctant to speak against religious discrimination, and those who have spoken have faced violence under Blasphemy laws[[472]](#footnote-473). The reports noted that ‘some government officials made anti-Ahmadi statements and attended events that vilified the Ahmadiyya Muslim Community’[[473]](#footnote-474)

Furthermore, there is an overall failure of authorities to investigate, arrest, or prosecute those responsible for religious freedom abuses. This situation has promoted an environment of impunity fostering intolerance and acts of violence.[[474]](#footnote-475)

**Religious Landscape**

1. Manifestations of anti-Muslim hatred

In recent years, the discrimination, harassment and abuse of religious minorities has been increased in Pakistan. Especially, Ahmadi and Shi’a Muslims are facing societal discrimination and attacks from extremist groups.[[475]](#footnote-476) USCIRF found that the government failed to provide adequate protection to religious minorities and also itself perpetrated systematic violations of religious freedom[[476]](#footnote-477). Therefore, the United States Commission on International Religious Freedom (USCIRF) in its 2018 annual report designated Pakistan as a ‘country of particular concern’.[[477]](#footnote-478)

*1.1. Ahmadi Muslims*

Ahmadi Muslims are suffering from high level of official and social discrimination and harassment. That includes:

* Sealing or demolishing Ahmadi mosques, barred construction of new mosques[[478]](#footnote-479);
* Banning Ahmadi Community’s books and literature[[479]](#footnote-480);
* Spreading hate speech against Ahmadis in official events, TV Channels and Social Media.[[480]](#footnote-481) Dawn News reported, in March 2017, that according to a representative from the Ahmadi community, at least 700 articles, inciting hatred against Ahmadis, were published in national daily newspapers in 2016[[481]](#footnote-482);
* Persecution of Ahmadis under ‘Anti-Ahmadi laws’ and Blasphemy laws.[[482]](#footnote-483);
* Organizing anti-Ahmadi rallies and conferences.[[483]](#footnote-484);
* Anti-Ahmadi violence of extremist religious groups through ‘systematic hate campaigns … direct threats, phone calls, intimidation, harassment of family members and invitation to convert to Islam[[484]](#footnote-485);
* Taking no action in order to prevent attacks of extremist groups against Ahmadis.[[485]](#footnote-486);
* Discrimination in education from both classmates and teachers.[[486]](#footnote-487). Although the Constitution prohibits discrimination in granting admission to government schools, students must declare their religious affiliation when applying for entry into both public and private institutions, including universities. Ahmadi students face extreme bullying, physical and mental abuse, segregation and threats;[[487]](#footnote-488)
* Discrimination in employment. Some jobs require employees to declare their faith, which can result in discrimination against Ahmadis[[488]](#footnote-489). Additionally, The New York Times reported in December 2017 that, in Rabwah, ‘No Ahmadis are employed in government departments or the police, or represented in local government[[489]](#footnote-490).

*1.2. Shia Muslims*

* Shi'a are still regarded as traitors by some extremist Sunni groups and individuals. As a result, many faces regular hostility from extremists and public calls for members to be killed.[[490]](#footnote-491) During the past year, the Shi’a Muslim population continued to face security threats from extremist groups and increased social discrimination from the public. […] Despite government efforts, Shi’a Muslims continued to be targeted in parts of the country, especially in the restive border region.[[491]](#footnote-492) According to the South Asia Terrorism Portal (SATP), over 1,000 Shia were killed from 2013 up to 17 June 2018 by sectarian violence.[[492]](#footnote-493) Over the years, various governments have taken the initiative to protect the Shia Muslims of Pakistan. But their efforts have not been effective in countering the growing influence of extremist forces[[493]](#footnote-494).
* Shi'a have also been subjected to various forms of hate speech, most commonly as campaigns in mosques, schools, public spaces and increasingly on social media. Shi'a are abused as a community for their religious beliefs and individuals are also picked out for criticism.[[494]](#footnote-495)
* Enforced Disappearances. In May 2018, BBC News stated that community activists reported that 140 Pakistani Shias had ‘disappeared’ over the last 2 years. They were allegedly taken by the Pakistani security forces.[[495]](#footnote-496)
1. Gendered aspects of discrimination

In a patriarchal society such as Pakistan, women from religious minorities face extensive and pervasive gender-based discrimination throughout their lives. Ahmadi women experience similar levels of harassment and social alienation as Ahmadi men in their day to day interactions, education and employment.[[496]](#footnote-497)

The situation for Ahmadi women in Pakistan is worse than men, as their social activities and interaction was severely curtailed[[497]](#footnote-498). Their religious identity can be easily recognized because of their particular clothing. It is very common to get harassed and be called a “Mirzai” which is derogatory term for female Ahmadis.[[498]](#footnote-499) Therefore, they do not attend mosque for worship or take part in social or religious gatherings due to security concerns. The Jinnah Institute reported that, ‘due to hate campaigns, Ahmadi women were denied service in shops and faced harassment, adding that these incidents were reported in all provincial capitals and other urban rural centres of the country’[[499]](#footnote-500). This situation is forcing women to stay at home in order to avoid harassment from the community and it results in gendered discrimination.[[500]](#footnote-501)

The IHRC/AHRC fact-finding report noted that women interviewed during the mission described being fearful for their safety, and that of their family and children, which often resulted in social alienation, forcing women to stay at home to avoid ridicule, harassment and abuse from the community[[501]](#footnote-502). “The segregation that women encounter once people know they are Ahmadi is like a form of religious apartheid which impedes their ability to move independently in society, at work and during routine activities like shopping or going to the market. Ahmadi women face overt discrimination when shopping. Some shops display signs and banners that state we do not deal with Qadiyanis. Shopkeepers ban them from entering shops to buy goods or refuse to serve them… “Some jobs require employees to declare their faith however, many women in employment choose not to reveal their religion to colleagues for fear of reprisals and losing their jobs.”[[502]](#footnote-503)

**Review on Palestine**

When analysing the situation in the Palestinian territories, particular attention must be paid to the ongoing conflict between Israel and Palestine, which is a complex and multidimensional one.[[503]](#footnote-504) In this jurisdictional review focus is given to the religious dimension of the conflict, since its purpose is to identify anti-Muslim hatred against Palestinians. Central to this issue are the various religious sites, especially Jerusalem (sacred for Islam, Judaism and Christianity), and the way that anti-Muslim hatred is used as a political weapon through hate speech and incitement to violence, both in Israel and Palestinian territory and internationally.[[504]](#footnote-505)

Additionally, the Network Against Islamophobia, a project of Jewish Voice for Peace, states that anti-Muslim hatred “plays a key role in building and sustaining public and US backing for Israel. Right-wing Christian and Jewish groups dedicated to denying the fundamental rights of Palestinians deliberately fuel fear of Muslims and Arabs (commonly assumed to be Muslims) to push their agenda in the Middle East. Unwavering support of Israeli policies contributes to the characterization of Muslims and all Arabs as the “enemy” and to the perpetuation of Islamophobia, or the failure to speak out against it”. They claim that the portrayal of Muslims as “the Enemy” begun in Israeli politics in the 1980s.[[505]](#footnote-506) This, together with the fact that most of the Palestinian population is Muslim, also needs to be considered, since most reports do not make an explicit distinction between Palestinians’ religion and therefore make anti-Muslim hatred harder to identify in this context.

For the mentioned purpose, this report will first expose the religious demography and legal framework of the territory, and then it will look at the diverse manifestations of anti-Muslim hatred, including practices by the different authorities involved, societal manifestations, gender aspects of anti-Muslim hatred and the international perception, including hate speech online.

**Demographic Landscape**

According to 2018 US government estimates, 2.8 million Palestinians live in the West Bank and 1.8 million in Gaza, from which the majority are Sunni Muslims[[506]](#footnote-507) (roughly 98 per cent as of 2011 World Bank Statistics).[[507]](#footnote-508) The Israeli Central Bureau of Statistics reports that approximately 412,000 Jewish Israelis reside in Israeli settlements in the West Bank in 2018.[[508]](#footnote-509) According to various estimates, 50,000 Christians live in the West Bank and Jerusalem (mainly Jerusalem, Bethlehem, Ramallah and Nablus), and according to media reports and and religious communities, approximately 1000 Christians reside in Gaza. The majority of Christians are Greek Orthodox; other groups are Roman, Melkite Greek, Arminian and Syrian Catholics; Syrian, Armenian, Coptic and Ethiopian Orthodox; Lutherans, Episcopalians, Copts, Maronites and members of other Protestant denominations such as Evangelical Christians, a small number of members of the Church of Jesus Christ of Latter-day Saints and Jehovah’s Witnesses. According to Palestinian Christian leaders, low numbers in this group are thanks to their accelerated immigration since 2001 and their low birth rates.[[509]](#footnote-510) 360 Samaritans reside in the West Bank, primarily in the Nablus area.[[510]](#footnote-511)

Worth noting is the village of Wahat al- Salam, Neve Shalon (Oasis of Peace). It is a community of Jewish and Palestinian citizens of Israel living together on a hill top between Jerusalem and Tel Aviv-Jaffa.[[511]](#footnote-512) The community is dedicated to building justice, peace and equality in the country and region, in the light of the conflict. It was founded in 1970 by Bruno Hussar.[[512]](#footnote-513) It has a population of 70 families as of 2019, including Muslims, Christians, Jews, agnostics and atheists.[[513]](#footnote-514) It has established educational institutions based on their ideals and conducts activities focused on political and social change; many of the village members working on peace, justice and reconciliation projects.[[514]](#footnote-515)

**Legal Framework**

Regarding the jurisdiction on the territories, according to the mentioned US state department report on freedom of religion in the Palestinian territories:

 *“West Bank and the Gaza Strip residents are subject to the jurisdiction of different authorities. Palestinians in the West Bank are subject to Jordanian and mandatory statutes in effect before 1967, military ordnances as enacted by the Israeli military commander in the West Bank in accordance with his authorities under international law, and in the relevant areas, Palestinian Authority (PA) law. Israelis living in the West Bank are subject to military ordnances as enacted by the military commander and Israeli law and Israeli legislation. Palestinian living in the portion of the West Bank designated as Area C in the Oslo II Accord are subject to military ordnances as enacted by the military commander. Palestinians who live in Area B fall under PA civil and criminal law, while Israel retains the overriding responsibility for security. Although per the Oslo II Accord, only PA civil and security law applies to living in Area A of the West Bank, Israel applies military ordnances enacted by the military commander whenever its military enters Area A, as part of its overriding responsibility for security. The city of Hebron in the West Bank – an important city for Jews, Muslims and Christians due to the Ibrahimi Mosque/Tomb of the Patriarchs — is divided into two different areas: Area H1 under PA control and Area H2, where approximately 800 Israeli settlers live and where internal security, public order and civil authorities relating to Israelis and their property are under Israeli military control. In 2007, Hamas staged a violent takeover of PA government installations in the Gaza Strip and has since maintained a de facto government in the territory, although the area nominally comes under PA jurisdiction.”[[515]](#footnote-516)*

1. Constitutional laws

Article 4 of the Palestinian Basic Law, which functions as interim Constitution, declares that Islam is the official religion in Palestine and the principles of Islamic Sharia shall be a principle source of legislation;[[516]](#footnote-517) though “respect to the sanctity of all other Divine religions shall be maintained.”.[[517]](#footnote-518) And article 18 guarantees freedom of belief, worship and the performance of religious functions, as long as public order or morals are not violated.[[518]](#footnote-519)

Article 3 declares Jerusalem as the capital of Palestine.[[519]](#footnote-520) A comment in the preamble states:

*The enactment of this temporary law for a transitional and interim period constitutes a fundamental step towards the realization of the firm national and historical rights of the Arab Palestinian people. It shall not in any way whatsoever abrogate or cancel the right to continue to strive to achieve their rights of return and self-determination, including the establishment of a Palestinian State with Jerusalem (al-Quds al-Sharif) as it capital, which is the first shrine and the third mosque, to which the prophet Muhammad, may peace be upon him, travelled by night, in the land of the nativity of Jesus, may peace be upon him*.[[520]](#footnote-521)

These reflect the religious dimension of the conflict mentioned in the introduction to this report.

Another relevant provision is Article 9 which establishes equality of Palestinians before the law and the judiciary, without distinction based on race, sex, colour, religion, political views or disability.[[521]](#footnote-522) Article 10 states that basic human rights and liberties shall be protected and that the Palestinian National Authority shall work without delay to become a party to regional and international declarations and covenants that protect human rights[[522]](#footnote-523) and article 31 calls for the establishment of an independent human rights commission.[[523]](#footnote-524) Article 19 establishes the right to freedom of opinion and expression,[[524]](#footnote-525) and article 27 refers to freedom of the media.[[525]](#footnote-526)

According to the US State Department report on freedom of religion in Israel, the right to freedom of religion is also protected by Israel’s “Basic Law: Human Dignity and Liberty”.[[526]](#footnote-527) However, this law does not explicitly mention this right or any protection thereof, it only states: “Fundamental human rights in Israel are founded upon recognition of the value of the human being, the sanctity of human life, and the principle that all persons are free; these rights shall be upheld in the spirit of the principles set forth in the Declaration of the Establishment of the State of Israel”.[[527]](#footnote-528)

Nonetheless, minimal aspects of freedom of religion can be observed in other Basic Laws. The Basic Law: Jerusalem, Capital of Israel, establishes protection of holy places, including access to them by the members of the different religions.[[528]](#footnote-529) And reference can be found to the religious dimension of the conflict in section 1 of this law, which states that “Jerusalem, complete and united is the capital of Israel”.[[529]](#footnote-530) This idea is strengthened by the new Basic Law: Israel - The Nation State of the Jewish People, which provides more specific provisions regarding Israel as the nation state of Jewish people and their perceived natural, cultural and religious and historical right to self-determination.[[530]](#footnote-531) It goes as far as to say that the right to self-determination in the State of Israel, is unique to the Jewish people.[[531]](#footnote-532) It only mentions non-Jewish citizens considering their right to observe the days of rest according to their religion, details regarding this are to be provided by law,[[532]](#footnote-533) and when it allows for a regulated use of the Arabic language.[[533]](#footnote-534)

1. International Treaties

Both Israel and Palestine are parties to the International Covenant on Civil and Political Rights (ICCPR).[[534]](#footnote-535) Which provides for freedom of religion in its article 18,[[535]](#footnote-536) and Article 27 establishes the right of ethnic, religious or linguistic minorities to enjoy their culture, to profess and practice their religion or to use their language.[[536]](#footnote-537) However, Israel has made a reservation regarding Article 23 (marriage and family),[[537]](#footnote-538) and any other provision to which the reservation is relevant. It states that matters of personal status are governed by the religious law of the parties involved and Israel reserves the right to apply them to the extent that such laws are inconsistent with its obligation to the Covenant.[[538]](#footnote-539) Palestine has not made any reservations, though, as mentioned later, personal status matters are also considered by religious courts and by Sharia derived laws for Muslims.[[539]](#footnote-540)

Additionally, Palestine is a party to the Arab Charter on Human Rights. The preamble of this instrument refers to a religious basis for the charter, mainly Islamic but also to other ‘Divine Religions’.[[540]](#footnote-541) It establishes in its Article 30, freedom of thought, conscience and religion, with no restrictions to its exercise other than those provided by law;[[541]](#footnote-542) the right to manifest and perform (alone or in community), their religion or belief except for such limitations prescribed by law, and that “are necessary in a tolerant society that respects human rights and freedoms for the protection of public safety, public order, public health or morals or the fundamental rights and freedoms of others”,[[542]](#footnote-543) and; parents or guardians have the freedom to provide for their children’s religious and moral education.[[543]](#footnote-544) And Article 25 protects minorities’ rights to enjoy their own culture, use their own language and practice their own religion.[[544]](#footnote-545)

In addition, Palestine acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), without any reservations or declarations, in 2014; women rights groups calling for it to be published by the PA in its Official Gazette to make it binding as domestic law under the Palestinian Basic Law.[[545]](#footnote-546)

**Implementation of Law and Challenges in Practice**

Laws in Palestine include a combination of unified PA laws, promulgated by the Palestinian Legislative Council and ratified by the president. If no unified laws exist, existing Jordanian, Egyptian and former British mandate laws apply: the Jordanian Penal Code No. (16) of 1960 and Jordanian Personal Status No. (16) of 1976 in the West Bank and, the British Mandate Criminal Code Ordinance No. (74) of 1936 and Egyptian Family Rights Law No. (303) of 1954 in Gaza. In East Jerusalem Israel has applied Israeli Civil Law since it unlawfully annexed it in 1968, even if it remains occupied territory under international law.[[546]](#footnote-547)

The PA’s reach is further limited since it cannot enforce its laws in Area C (equivalent to 60 per cent of the West Bank) where the Israeli military has exclusive control, or in Gaza, since Hamas holds de facto authority. For instance, the president has issued several decrees amending certain discriminatory laws, which he is allowed to do so under article 43 of the Basic Law. Some of these presidential decrees include amendments to Gaza’s laws, but Hamas has not applied them and has instead issued separate decrees.[[547]](#footnote-548) More detailed information in this regard will be discussed in the section on Gender aspects of anti-Muslim hatred, since laws are particularly discriminatory against women and their mention will be complemented with examples of the situation in practice.

Israel has attempted several times to ban on all mosques the use of speakers for the Muslim call to prayer (Azan). In March 2017 a bill prohibiting the use of loudspeakers to call for prayer in Israel, was passed as a preliminary reading, with 55 votes in favour and 48 against.[[548]](#footnote-549) This proposed law refers to houses of worship in general, however, it was labelled “Muezzin law” by Israeli media in reference to the man who chants the Muslim call to prayer. Moreover, it is divided into two bills. One would ban summoning to worship through loudspeakers between 23:00 and 7:00, effectively muting one of the five Azan which is around 5:00. The second would ban amplifications at all times in residential areas, with a 10000.00 shekel ($2700.00 Dollars) fine for violations.[[549]](#footnote-550) Supporters of said law argue it is aimed at improving life and sleep quality of people living near mosques, but opposition views it as racist and infringing freedom of religion of Israel’s Muslim minority (Arabs make up almost 20 per cent of the population), and as inciting hate and violence.[[550]](#footnote-551)

Discussions on this proposed law still continue, even when it was prevented from passing.[[551]](#footnote-552) However, in 2019, Jerusalem Mayor, Moshe Lion, advanced plans requiring mosques to turn down the volume of loudspeakers during the call to prayer. The plan including: replacement of old loudspeakers at mosques for new quieter ones; not allowing the volume of the Azan to exceed the limit permitted under noise ordinances, and; permitting police to turn down the volume of the speakers if they are too loud. This proposal being supported by a number of local leaders.[[552]](#footnote-553) Furthermore, on April 2018, Israel ban the Friday Azan at the Ibrahimi mosque in the West Bank city of Hebron. Yousef Adais, the Palestinian Religious Endowments Minister, call this a “a dangerous precedent and cowardly breach of the freedom of worship. Continued Israeli violations against the mosque clearly show that the occupation authorities, along with the settlers, are trying to exert total control over the area’s Muslim holy sites”.[[553]](#footnote-554) As a context note, this mosque has been involved in several attacks against Muslims, including the killing of 29 Muslim worshippers in 1994 by Baruch Goldstein, an Israeli American Jewish settler. The mosque was consequently divided between Muslim and Jewish worshippers, into an unequal 45 per cent for Muslim and 55 per cent for Jewish worship.[[554]](#footnote-555) Under Oslo-era agreements, Israel and the PA share responsibility for the Ibrahimi Mosque/Tomb of the Patriarchs, with significant disagreements over division of responsibilities.[[555]](#footnote-556)

The site referred to by Muslims as the Haram al-Sharif (noble sanctuary), which contains the dome of the Rock and the al-Aqsa Mosque, and referred to by Jews as the Temple Mount, who recognise it as the foundation of the first and second Jewish temple, has been under Israel control since 1967 when they captured the Eastern sector of the city – Israel applies its laws to East Jerusalem. However, administration of the Haram al-Sharif/Temple Mount is carried out by the Jerusalem Islamic Waqf, a Jordanian funded and administered Islamic trust and charitable organisation.[[556]](#footnote-557)

Freedom of Religion is also restricted by Israeli authorities closure, curfew and separation barrier; as well as freedom of movement for Muslim and Christian worship, though restrictions on Muslims are stricter, often adding distinctions based on age and gender.[[557]](#footnote-558) This discrimination is supported in a way by Palestinian identification papers which were required by the PA to indicate the person’s religious affiliation. This category was removed from identity cards issued since 2014, though older identity cards continue to circulate.[[558]](#footnote-559)

Islamic or Christian religious courts must handle all legal matters relating to personal status (marriage, inheritance, dowry, divorce, child support, etc.). For Muslim Palestinians personal status law is derived from Sharia. All legally recognised religious groups are empowered to adjudicate personal status; those churches unrecognised by the PA must obtain special permission to perform marriages and adjudicate personal status. Hamas enforces restrictions on Gaza’s population based on its interpretation of Islam and Sharia, including a separate judicial system from the PA courts. These restrictions are stricter on women. Hamas courts have prohibited women from leaving Gaza, even if they had Israeli authorisation to do so, due to ongoing divorce or family court proceedings.[[559]](#footnote-560)

Regarding education, in public schools operated by the PA, as well as some Palestinian schools in Jerusalem with PA curriculum, religious education is compulsory from grades 1 through six, with separate religious courses for Muslims and Christians. Recognised churches operate private schools in the West Bank, including Islamic private schools, which provide religious instruction. Media also reported that the Hamas affiliated Islamic University of Gaza required hijabs for all females. However, Gazan civil society leaders said that Hamas had moderated its restrictions on dress and gender segregation in public in recent years.[[560]](#footnote-561)

**Religious Landscape**

* + - 1. Manifestations of Anti-Muslim Hatred

This section exposes examples of manifestations of anti-Muslim hatred from both society and authorities since in many cases is hard to draw a separation line between the two. As seen in the examples, authorities tend to act alongside society in attacks against Muslims and Palestinians in general. Propaganda and the portrayal of Palestinians in the media, together with discriminatory policies and practices, also act as attacks against Muslim and Palestinians by the authorities while legitimising islamophobia in society.[[561]](#footnote-562) Furthermore, according to local human rights groups and media, Israeli authorities rarely prosecute Jewish attacks against Muslims and Christians successfully, not opening investigations or closing cases for lack of evidence.[[562]](#footnote-563)

Considering direct manifestations of anti-Muslim hatred: There have been several attacks by Israeli settlers and Israeli police on Muslim worshippers and storming of mosques, Including a storming of Al-Aqsa mosque by Israeli Minister and settlers on October 2019; many Palestinians were killed or injured in most cases.[[563]](#footnote-564) Also, on August of the same year, Israeli authorities closed to Muslim worshippers Ibrahimi Mosque Complex for a Jewish holiday; even if this mosque complex had been divided by Israeli authorities between Muslim and Jewish worshippers after the 1994 massacre of twenty-nine Palestinian Muslims in Ramadan during Faja (dawn) prayers by Jewish settler Baruch Goldstein.[[564]](#footnote-565) Israeli authorities have also killed Palestinians protesting against Israeli excavations that threaten the structure of Al-Aqsa mosque. Further, this excavations are focused on finding proof ofJewish religious heritage and evidence of Muslim and Christian heritage is often disregarded.[[565]](#footnote-566)

Further, on the Friday after the US so called “Peace Plan”, at dawn, Israeli occupation forces raided al-Aqsa mosque and attacked thousands of worshippers who headed there with rubber bullets, preventing hundreds of people from entering the holly site for Friday prayers. At least 10 people were wounded.[[566]](#footnote-567)

Attacks against mosques are also common. The Israeli organisation Tag Meir, established to counter settlers hate crimes and racism in Israel and the West Bank, said that extremist Jewish settlers have carried out arson attacks on 46 mosques in the last decade. It commented that most of this attacks are perpetrated by an extremist settler group called Price Tag, and that they leave hate messages (e.g. “Death to Arabs” Graffitied on the walls of the buildings) they burn down.[[567]](#footnote-568) In 2014, the PA’s Tourism and Antiquities Ministry call for UNESCO to condemn as a war crime, and take immediate measures to stop, the military targeting of cultural and natural heritage in Gaza. It claimed that the destruction of 41 mosques, and partial destruction of 120 mosques and shrines, during five weeks of the Israel’s military operation in Gaza is a war crime. For its part, Israel has generally stated that Hamas has used mosques to store weapons and the IDF has charged that Hamas has dug tunnels under mosques or used them as a base for launching rockets.[[568]](#footnote-569)

Hate speech against Palestinians has also risen in social media, including incitement to violence, rape and murder. Israeli authorities rarely act on these cases, whilst they ban and delete Palestinian posts and accounts, even if their content is inoffensive (e.g., poems), and using them as evidence to arrest them.[[569]](#footnote-570)

Moreover, a team from The Guardian discovered that behind many Facebook pages from the far right there were at least one Israeli administrator. These ‘people’ would either have pages on their own or contact others who shared far right content all over the world with fake names and profiles. They post hate content; mainly anti-Islam, anti-Palestinian and pro-Israel, most of them fake news. Further, the data analysis carried out by the team, found that these ‘people’ form an organised network with many sites posting the same hateful content at the exact same time and profiting by doing so.[[570]](#footnote-571)

1. Gender Aspects of anti-Muslim hatred

As mentioned earlier in the legal framework section of this report, the legal and jurisdictional situation in the occupied Palestinian Territories is complex regarding the different mandates, authorities and particularly the ongoing occupation.[[571]](#footnote-572) These, including the involved political violence, especially affects women, even promoting gender based violence.[[572]](#footnote-573) For example, women experience trauma and coping in response to political violence, house raids and demolitions, terror and sexual harassment; soldiers molesting young women; gender-related violence (including surveillance of martyrs wives, births at checkpoints when trying to cross for medical services, unemployed and frustrated husbands at home).[[573]](#footnote-574)

In this regard, a 2017 shadow report by two Palestinian women NGOs to CEDAW Committee focuses on the impact on women of night raids, settlements and settler violence, imprisonment, property destruction and residency revocation and, the blockade on Gaza.[[574]](#footnote-575)

Night raids are great in number, most of them happening between 2:00 and 4:00 A.M.,[[575]](#footnote-576) and particularly affect women (78 per cent of the women interviewed by WCLAC had experienced a raid on their home).[[576]](#footnote-577) For example: women are forced to strip off their clothes and submit to degrading bodily searches;[[577]](#footnote-578) mothers are forced to watch while soldiers hit their children, arrest them and take them away with no information as to why and where they are taken;[[578]](#footnote-579) women and family members are threatened with death when they ask for explanations or information[[579]](#footnote-580), and; they generally submit women to gender based violence in their homes, with long term effects such as insomnia and depression, hindering their human rights such as to private life, adequate standard of living, health, and their development.[[580]](#footnote-581)

The UN Special Rapporteur on Violence against women noted that Israeli settlements in the Occupied territories place an “immense psychological strain on women and families in general, constantly disrupting and inhibiting everyday family life”.[[581]](#footnote-582) Settler violence affects women’s social, economic and cultural rights as well. For example, Israeli settlers harassed girls on their way to school to the extent that their families prefer not to send them to school, which interferes with their right to education.[[582]](#footnote-583) Also, as mentioned in the previous section, Israeli settlers and Israeli authorities tend to storm into holy sites while Palestinians are conducting prayers. This can particularly affect women, as happened in January 2019, when in a storming of the Dome of the Rock mosque inside the Al-Aqsa compound by police, several Israeli settlers entered the women’s prayer space while Muslim women were praying inside.[[583]](#footnote-584)

Residency revocations, particularly prevalent in East Jerusalem, with different rules for Jews and Palestinians, are based on punitive measures and collective punishments,[[584]](#footnote-585) forcing people from their own homes and leading to traumatic fears of separation from children for mothers and entrenching of patriarchal practices in society.[[585]](#footnote-586) Women living in East Jerusalem lose their residency rights if their husbands divorce or remarry, with no real choice for the children involved or consideration of their best interest, and if they stay with the father, the mother would no longer be allowed to reside in the same city or visit them. Which also has an effect on women experiencing domestic violence, since they fear going to the authorities and consequently being forcibly transferred away from their children.[[586]](#footnote-587) “

Another important issue is female prisoners. On the 8th of March 2017, Adameer reported that 55 Palestinian women were held in Israeli prisons, including 12 children and 16 mothers of 58 children. As of July the same year, the number of female detainees had risen to 6239.[[587]](#footnote-588) The majority are detained in Hasharon and Damon prisons inside Israel, an unlawful transfer according to article 76 of the fourth Geneva Convention and 8 of the Rome Statute. This separates women from their lawyers and families, more so because of the heavily controlled border,[[588]](#footnote-589) and these prisons are not equipped to meet requirements for female prisoners, (except for Neve Terza prison in Ramleh), with reports arriving of degrading and humiliating practices, and basic health care needs go untreated.[[589]](#footnote-590)

Then is the situation in Gaza. The 51-day conflict in 2014 had crippling effects. From the 1462 civilians killed, 20 per cent were women and 38 per cent children; a further 11231 Palestinians were injured, 32 per cent women and 31 per cent children, with 1500 children remaining orphans. Civilian infrastructure was also targeted, this being obliterated, incapacitated or damaged and resulting in 500,000 internally displaced persons (equivalent to 28 per cent of the population). Moreover, many of the attacks launched by Israeli forces in residential areas were carried out at dusk or dawn, increasing the likelihood of families being at home and rendering women particularly vulnerable, especially in the case of pregnant women.[[590]](#footnote-591) Following the conflict, the imposition of heavy restrictions on the free movement of goods, services and people in and out of Gaza have also affected women in specific ways: in heavily policed checkpoints reports are common on degrading bodily searches; long delays also impact in emergency cases, such as childbirth, or for people in ongoing treatment, including cancer patients being denied permits and missing chemotherapy appointments; basic female sanitary products’ movement is limited, along with health workers and medical equipment.[[591]](#footnote-592)

Furthermore, although there’s been a growth in population, a decline in health facilities is observed, with particular detriment for pregnant women. They are subjected to dangerous risks from a lack of services and equipment. Abortions, premature births and labour complications are also increasing, and many women give birth in shelters, those who give birth in hospitals being evacuated immediately post labour, including those who have undergone a caesarean section.[[592]](#footnote-593) The infrastructural crisis affects women more as well, as they are often the keepers of the home, being unable to provide for their families, with a 78 per cent of young women unemployed. The humanitarian crisis has further forced women to neglect their own needs to save and support their families, many suffering from post-traumatic stress disorder, anxiety, depression and, in many cases, permanent disabilities.[[593]](#footnote-594)

Finally, going back to the legal entanglement in the Palestinian territories, which affects Muslim women more considering the Sharia based laws and can be regarded as a form of intra-Muslim discrimination, on the 14th of March 2018, the Palestinian president, Mahmoud Abbas, signed the law No. 5 of 2018, which repealed article 308 of the 1960 Penal code enforced in the West Bank. This law allowed rapist to marry their victims to escape prosecution and avoid imprisonment. The new law also amended article 99 of mentioned penal code, in order to prohibit judges from reducing sentences for serious crimes, such as the murder of women and children, which was a common practice.[[594]](#footnote-595) This amendment is also important since it completed a previous one done in 2011 to abolish the application of mitigating circumstances to honour crimes in the West Bank and Gaza Strip, but which had not abolished mentioned article 99 providing judges with the discretion regarding mitigating factors in so called honour crimes.[[595]](#footnote-596)

However, social conventions and perceptions are still an obstacle for women. Both Sufan (the shelter director in Nablus) and WCLAC “warn that families may still coerce women and girls who become pregnant to marry the men because of barriers to get birth certificates for children born out of wedlock and the criminalization of abortion”.[[596]](#footnote-597)Also, many times alleged killers or rapist may flee to area C and East Jerusalem, where the PA has no control, to avoid prosecution.[[597]](#footnote-598)

Further, when it comes to family matters, Muslim women’s rights are more restricted as they are subjected to personal status laws based on Sharia. For instance, men can have four wives while women cannot marry without a male guardian’s permission, unless they have married previously or obtain court approval to marry without the mentioned permission or against their guardian’s wishes. Women are also required to obey their husbands, even when they change their residence or forbid women from working, in return for their entitlements to maintenance and accommodation from their husbands. Men have a unilateral right to divorce, while women have to apply to the courts for divorce on specific grounds, and the court has to attempt reconciliation, even when the wife claims domestic violence, and if these attempts fail, turn the matter to arbiters. Moreover, the best interest of the child is not of primary concern when determining with which parent the child should live and the guardianship rights of each parent. Fathers retain guardianship rights even when the child officially lives with the mother and the child can be automatically removed if the mother remarries but not the father. In response to this, an official from the Women’s Affairs Ministry said that the government had set up a ministerial committee in March 2018 to review the personal status laws.[[598]](#footnote-599)

1. International Perception

As mentioned earlier in this report, Israel has been accused of promoting Islamophobia around the world, portraying all Arabs, and therefore Palestinians included, as the enemy.[[599]](#footnote-600) The mentioned study carried out by a team from The Guardian which discovered a Israeli controlled network of hate speech against Islam and Palestinians and pro-Israel, points to backing this affirmation.[[600]](#footnote-601) However, although this study points to an Israeli network, this does not prove involvement of the government.

Another feature of this conflict is the portrayal of Palestinian attacks as terrorist, which is supported by the popular conception of all Muslims as terrorists. For example, attacks by Palestinians tend to be treated as terrorist, but when attacks with the same characteristics (kidnappings, killing, setting people or buildings on fire, killing of civilians, stoning and ramming of cars, etc.) are executed by Israeli parties, they are hardly referred to as terrorist.[[601]](#footnote-602)

This tends to be a predominating international perception of Muslims. Media Tenor International, a global leading research institute on strategic media research that studies data for NGOs, governments, corporations, etc., stated that between 2007 to 2013, news outlets such as Fox, NBC and CBS depicted Islam primarily as a source of violence. In 2011 it reported that US and European news outlets focus on the Middle East primarily through the context of Muslim militancy. In a study on news coverage from LexisNexis Academic and CNN for all terrorist attacks in the US between 2011 and 2015, it found that more coverage is given to attacks by Muslims (especially foreign born Muslims) than by other perpetrators, even if they are the less common attacks, with an average of 449% more coverage.[[602]](#footnote-603) Which can be detrimental for the international perception of the Palestinian side of the conflict. However, this does not mean that attacks by Palestinian parties are not carried out.

Another issue is the filing of lawsuits against anybody who criticises Israel and Israeli politics, as is the case of American Muslims for Palestine, categorising them as antisemitic; and pushing for the firing and defamation of scholars, activists and journalists arguing for Palestine.[[603]](#footnote-604) This is supported by evidence provided by a report from Palestine Legal on the restriction, barriers, censoring, etc. of Palestinian advocacy and support of Palestinian human rights in the US.[[604]](#footnote-605) Which also highlights the use of false accusations of terrorism for any organisation or individual supporting Palestinian human rights. It is something also experienced by Palestinian and Israeli civil society organisations, who attribute this kind of targeting to a campaign by different extremist pro occupation groups operating in Israel, Europe and the US, coordinated by the Israeli Ministry of Strategic Affairs (MSA).[[605]](#footnote-606) An example of this can be seen in a recent article by a British advocate for the State of Israel, who argued that charging Islamophobia is itself antisemitic, which further increased the worries about the normalisation of anti-Muslim hatred in Britain, particularly within the ruling Tory party.[[606]](#footnote-607)

Conclusion

The situation in Palestine/Israel is a complex one, and anti-Muslim hatred against Palestinians needs to be contemplated in the light of the ongoing conflict. This because, as exposed in the present report, the ongoing occupation affects the different areas of life in the Palestinian territories, including the legal framework and the manifestations of anti-Muslim hatred in society, since the Israeli authorities and settlers are key actors in this regard. Furthermore, the occupation has important consequences on the gender aspects of Islamophobia in the Palestinian context, and deepens the patriarchal system in which Palestinian women find themselves, experiencing discrimination and violence from both the Israeli and Palestinian fronts. And finally, as the conflict involves diverse issues, including human rights and international law disputes, as well as the different international support whether of Israel or Palestine, the international status of anti-Muslim hatred and perception of the conflict also play and important role.

This is not meant to disregard the existence of antisemitism present in the conflict as well, nonetheless, attention must be paid to the use of antisemitism as an excuse to block views or actions against Israel or Israeli politics, which are not in fact anti-Semitic. More research is needed in this area, particularly considering that, as the conflict is involved, it is hard to find neutral sources. Nevertheless, an important reason for the continuation of said conflict is the environment of hate, including Islamophobia and antisemitism, which reflects the importance of this topic. Moreover, attention should be paid also to the different organisations and platforms for peace, such as the mentioned *Wahat al-Salam ~ Neve Shalom* community or the Palestinian Israel Journal (PIJ). Palestine and Israel are together but divided at the same time, and anti-Muslim hatred needs to be targeted as it further deepens this division.

**Recommendations for Addressing Islamophobia**

The following is a preliminary list of recommendations proposed to governments, international organisations, civil society, media and other relevant stakeholders on how to address the challenges posed by Islamophobia. While the list does not include recommendations or suggestions received directly from interviews with NGOs or stakeholders, the list aims to provide a holistic response to the issues posed by Islamophobia, in that it seeks to provide a human rights-based approach that addresses both the actions manifesting anti-Muslim hatred, as well as the root causes of Islamophobia at multiple level of society.

* Reasonable Accommodation – in accordance with article 4, paragraph 1, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Heiner Bielefeldt has asserted that ‘instead of diluting the principle of equality, reasonable accommodation contributes to a more complex — and thus more appropriate — conceptualization of substantive equality, based on equal respect and concern for all human beings with their diverse biographies, convictions, identities and needs’.[[607]](#footnote-608)
* Promoting education of younger generations, law enforcement officials, and media outlets, regarding the importance of promoting a healthy discourse regarding the issues of Muslims, including participation in community outreach programs.
* Creating clear criteria for reporting hate crimes in order to encourage reporting of hate crimes.[[608]](#footnote-609)
* *See also* the steps outlined by the UN HRC’s Resolution 16/18, ‘Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief’ (12 April 2011), A/HRC/RES/16/18:
	+ Oppose derogatory stereotyping, including negative profiling and stigmatization of persons based on their religion or belief;
	+ States should take effective measures to oppose and combat any advocacy of religious hatred against individuals that constitutes incitement to discrimination, hostility or violence;
	+ States should take effective measures to oppose the use of print, audio-visual or electronic media or any other means to incite discrimination, hostility or violence against Muslims or those deemed to be Muslims;
	+ States should promote inter-faith and intercultural dialogue as a means to protect against religious intolerance, strengthen democracy, and combat religious hatred;
	+ States should heed the advice of the Secretary-General of the Organization of the Islamic Conference provided at the fifteenth session of the Human Rights Council, to take the following steps to foster a domestic environment of religious tolerance, peace and respect:
		- ‘(a) Encouraging the creation of collaborative networks to build mutual understanding, promoting dialogue and inspiring constructive action towards shared policy goals and the pursuit of tangible outcomes, such as servicing projects in the fields of education, health, conflict prevention, employment, integration and media education;

(b) Creating an appropriate mechanism within Governments to, *inter alia*, identify and address potential areas of tension between members of different religious communities, and assisting with conflict prevention and mediation;

(c) Encouraging training of Government officials in effective outreach strategies;

(d) Encouraging the efforts of leaders to discuss within their communities the causes of discrimination, and evolving strategies to counter these causes;

(e) Speaking out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;

(f) Adopting measures to criminalize incitement to imminent violence based on religion or belief;

(g) Understanding the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through, *inter alia*, education and awareness-building;

(h) Recognizing that the open, constructive and respectful debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels, can play a positive role in combating religious hatred, incitement and violence.’[[609]](#footnote-610)

* + Encourage States to provide updates on efforts made in this regard as part of ongoing reporting to the Office of the United Nations High Commissioner for Human Rights;
	+ States should adopt measures and policies to promote the full respect for and protection of places of worship and religious sites, cemeteries and shrines;
	+ There should be an international effort to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs.[[610]](#footnote-611)
	+ States must cease arbitrary and discriminatory profiling practices against Muslims and those deemed to be Muslim. Any and all restrictions on the freedom of religion, belief, or thought, or freedom of expression must be in accordance with articles 19 and 20 of the International Covenant on Civil and Political Rights. These restrictions must: (i) be established in law; (ii) pursue a legitimate aim; and (iii) be proportionate with respect to the goal of the restriction.[[611]](#footnote-612)

**Conclusion**

The present report investigated in detail the underlying dynamics that directly or indirectly support the rise of anti-Muslim hatred in China, the European Union in the context of the three member states, India, Iraq, Myanmar, Pakistan and Palestine. The report found out that Anti-Muslim hatred extends from the laws and policies to the practice of all examined states that restrain the fundamental rights of Muslims.

The common findings are that many Muslims face discrimination in the areas of education, employment, housing and subjected to physical, virtual or online attacks and experience police abuse. However, the reasons behind these violations differ from country to country. In Pakistan, for example, the main cause of Anti-Muslim hatred is the existence ‘anti-Ahmadi’ and Blasphemy laws while in Iraq and Palestine, it is the political instability of the country due to foreign occupation, and armed conflict within the country over the last decades.

At the same time, the Anti-Muslim hatred led to grave human rights violations and international crimes such as ethnic cleansing of the Rohingya people in Myanmar, detention camps in Xinjiang, China where Individuals have been subjected to forced disappearance, torture, physical abuse, prolonged detention without trial and death, and shooting and burning of Muslims in their homes in India.

In Europe, it is largely recognized that the incitement of anti-Muslim hatred has intensified in the mainstream media since al-Qaeda’s terrorist attacks on September 11. Anti-Muslim rhetoric often associates Muslims with terrorism and extremism or portrays the presence of Muslim communities as a threat to national identity. Muslims are often portrayed as a monolithic group, whose culture is incompatible with human rights and democracy. Specifically, a failure of the police and authorities to respond to anti-Muslim manifestations in Germany, prohibition of wearing headscarves in public places and schools in France, remaining prejudges against Muslims in the UK politics deteriorated the situations of the Muslims in those countries.

When it comes to the gendered aspect of discrimination, the report revealed that Muslim women experienced more discrimination than Muslim men in all examined countries due to their clothing which makes their religion easily identifiable to attackers and employees.

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