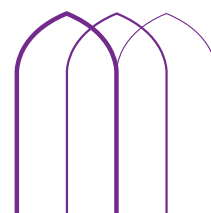


LIVING TOGETHER: THE IMPLICATIONS OF MUSLIMS AND CHRISTIANS SHARING TERRITORY



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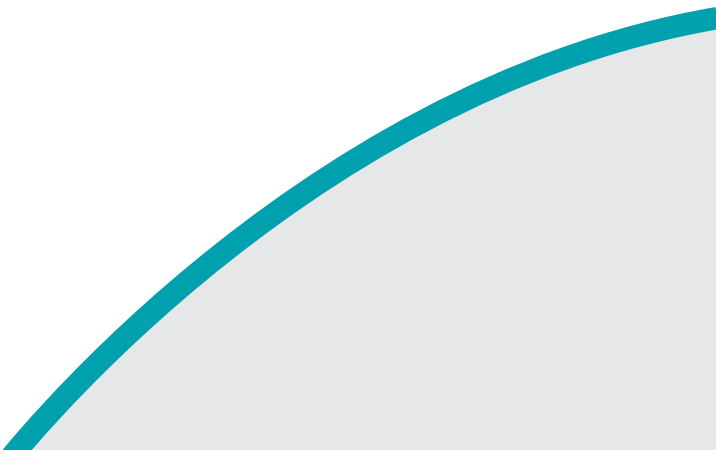
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Centre for Muslim-Christian Studies
109A Iffley Rd.
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OX4 1EH

Or

Email: office@cmcsoxford.org.uk

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LIVING TOGETHER: THE IMPLICATIONS OF MUSLIMS AND CHRISTIANS SHARING TERRITORY

“ Many communities operate on the basis of a series of parallel lives. These lives often do not seem to touch at any point, let alone overlap and promote any meaningful interchanges. ”

The above observation was made about inner-city communities in England by an enquiry team chaired by Professor Ted Cantle in 2001 following riots in some northern cities.¹ Fifteen years later a similar comment was made by Dame Louise Casey in her review into opportunity and integration, which “highlighted worrying levels of segregation and socioeconomic exclusion in different communities across the country and a number of inequalities between groups”.² Whatever one may think about the quality or accuracy of those reports, clearly one only has to look at the news today to realise that the issue of how different communities – be they based on ethnicity, religion or class – live together is still of pressing concern. The Centre for Muslim-Christian Studies is seeking to embark on a new research project to explore how Christians and Muslims have shared territory at different times and in different places, and what we can learn for the present encounter.

To this end the four articles in CMCS Research Briefings No.9 were all presented in Oxford between October 2016 and March 2017 as part of a series of seminars entitled ‘Living Together’ opening up the implications of Muslims and Christians sharing territory. The first two articles are case studies of how Christians and Muslims have shared territory in particular situations. Dr Rana Abu-Mounes provides an historical account of the circumstances surrounding the 1860 riots in Damascus during which several thousands of mainly Christians were killed. Her careful analysis suggests that there were deeper reasons underlying the religious tensions and seeming sectarian nature of the riot. The second, by Dr Mohammed Girma, explores the interesting case of Ethiopia and identifies various reasons why Christian-Muslim relations have not experienced the same tensions as elsewhere in the world.

The second pair of articles consists of two brief overviews mapping out areas where the lives of Christians and Muslims overlap in the UK. Both highlight how the Christian-Muslim encounter takes place within a broader secular context. Professor Lucy Vickers discusses how Christians, Muslims and others share the workplace and explains the legal challenges of religious freedom in the context of employment. She finds that the courts have to balance the religious rights and interests of the employee proportionately with the freedoms of their customers and colleagues. Dr Muzammil Quraishi explores another aspect of the legal system where Muslims and Christians may find themselves sharing space – prison. He presents research into multi-faith chaplaincy in UK prisons and recognises the unique opportunities which exist in that demanding context



Editor:
Dr Richard McCallum

FOOTNOTES

- 1 Cantle, Ted, 'Community Cohesion: A Report of the Independent Review Team', London: Home Office, 2001, 9.
- 2 Casey, Louise, 'The Casey Review: A review into opportunity and integration', Department for Communities and Local Government, 2016, 14.

MUSLIM-CHRISTIAN RELATIONS DURING THE 1860 RIOT OF DAMASCUS: LOCAL ISSUES AND FOREIGN INTERVENTIONS

On 9 July 1860 CE, an outbreak of violence occurred in Damascus that focused the attention of the whole world on that city. Multi-religious and multi-ethnic Damascus witnessed unprecedented bloody riots between its locals. A crowd which consisted of Druzes, Bedouins, the low class of the city and Kurdish auxiliaries attacked Bab Tuma, the inner-city Christian quarter in Damascus. Within a few days thousands of Christians were killed. That riot was a big shock to the Ottoman authority, to the foreign powers, and to the rest of the Damascene society.

Although Islam was the religion of the majority and of those in power in Damascus, Christian, Jewish, and other communities continued to exist. Under the Ottoman government the city's local population could be classified in three ways. Firstly, according to the Ottoman Millet system, state subjects were divided along religious lines. Secondly, ethnicity and language created different cultural groups. Finally, the presence of foreign communities added a further layer of complexity to the demography of Damascus.

“ Even though there were sporadic bouts of tension and suspicion between them, they generally lived peaceably together. Therefore, the 1860 riot raised many questions as to what exactly had happened...

However, the Jewish, Christian and Muslim communities which had established themselves in Damascus used to respect each other's beliefs and ways of life. Even though there were sporadic bouts of tension and suspicion between them, they generally lived peaceably together. Therefore, the 1860 riot raised many questions as to what exactly had happened in Damascus and, most importantly, why?

MONDAY 9TH

In June and early July, Damascus was significantly affected by clashes between Christians and Druzes in many villages and towns in the

surrounding region. The city witnessed the arrival of thousands of Christian refugees in search of food and security. They came mainly from Rashyya and Hasbyya, two neighbouring towns of Damascus. Their arrival and the attitude of the Ottoman governor towards the unrest in the region raised the level of tension in Damascus, which reached its peak on Monday 9 July. On that day, the Christians found crosses drawn on the walls and the pavements. This was the straw which broke the camel's back.

In an attempt to control the situation, the Ottoman governor of Damascus, Ahmad Pasha, gave orders to arrest a number of Muslim boys who were accused of having painted the crosses. Those boys had to sweep the city while they were in chains. This procedure provoked their relatives and led to an attack on the accompanying gendarmes to free them. Some men from al-Midan who had just been enrolled in the security troops started running, increasing the chaos and fear. Shortly afterwards, crowds of Bedouins and Druzes from the villages surrounding Damascus came to join the mob. The unfortunate outcome was that the rioters attacked the Christians of Bab Tuma including the foreign powers' institutions and consulates.

TUESDAY 10TH

Tuesday 10 July passed somewhat calmly without further disturbances, which was mainly due to thousands of Christians taking refuge in the households of Muslim laymen and notables or in the city's citadel, where they were to shelter as best they could for several weeks. Unfortunately, this relative calmness did not last for long. The destruction was repeated on Wednesday 11 July. The chaos spread, and

a fire was started, which almost burned the whole city down, further aggravating communal relations. On that day, the number of Christians killed was similar to those on the first day. Rumours played a big role in instigating and increasing the hostilities and anger in the city. The duration of the disturbance and the numbers of people killed have been highly contested, but it might be concluded that the riot lasted approximately a week and that several thousands of people were killed.

It is interesting to note that while the eyewitnesses narrated the atrocities committed by the rioters, they did not fail to praise other Muslim notables who protected the Christians and provided them with shelter. For example, they highlighted the role played by 'Abd el-Qadir al-Jaza'iri, a leading Algerian figure in Damascus at that time, who took

a large number of Christians into his own house and saved them. His men also saved a great number and took them to the Castle.

It is easy to explain the 1860 riot of Damascus as religious fanaticism since the aggressors were mainly Muslims and the victims Christians. However, a critical study of how the rioters proceeded and of the selective nature of their choice of victims warrants a reconsideration of the underlying factors that led to the event. A good starting point in this regard is an attempt to identify the geographical distribution of the Damascene Christians in Damascus at the time of the incident. A brief account of the demography and geographical distribution of the Christian population in Damascus in 1860 will serve as a background to the analysis as well as help set the discussion into its unique context.



THE MUSLIMS AND CHRISTIANS OF DAMASCUS

The Christians of Damascus lived in two main quarters inside the wall which surrounded the city: Bab Tuma and Bab Sharqi. They also used to live outside the wall, in the southern quarter, Al-Midan, and in its sub-quarters where Muslims were the majority. The 1860 riot was restricted to only one quarter: Bab Tuma. This seems to be a departure from 'normal' religious violence. Religious violence is, as Benedict et al. stated, generally non-discriminatory in nature since the perpetrators consider the victims to be an illegitimate presence within the community which must be punished and uprooted.¹ Against this backdrop, if the riot of 1860 was anti-Christian in nature, as many tend to believe, one would expect the Muslim rioters to have attacked all Christians in the vicinity. In other words, why did the Muslims direct their anger mainly towards the Christians of Bab Tuma and not towards any other Christians in other parts of the city?

There were many and interlinked motives and forces behind the incident. The Ottoman government in Istanbul decided during the nineteenth century to reform and reorganise the state from within,

“ Neither Muslims nor non-Muslims were content with or willing to accept the changes.

yet the reforms did little to ameliorate the life of the majority of the people. Neither Muslims nor non-Muslims were content with or willing to accept the changes. Among the provisions included in the reform decrees were: the establishment of mixed courts and tribunals for lawsuits between Muslims and non-Muslims, in which all witnesses were deemed to have equal status; equal admission of Muslims and non-Muslims to military services and public employment; equal taxation; religious freedom in terms of conviction, practice and establishment of religious ordinances; and the reformation of provincial and communal councils so as to ensure fairness in the choice of the deputies of the Muslim and non-Muslim communities. However, Muslim commoners were reluctant to give up their traditional way of life, especially as they realised that the new regulations benefited the Christians while it worsened their own situation. The Christians, on the other hand, were not willing to pay the price for the liberal treatment and equality



they were granted by these reforms. Although the aim was to unite the local people as Ottoman subjects regardless of their religions, what happened was the opposite. The divides between the different religious communities became clearer. There was lack of understanding of the spirit of the reforms as well as a lack of trust in the government's aims. Thus, the reform schemes did not impact positively on Christian-Muslim relations; neither did they increase social solidarity. Rather they achieved the opposite.

FOREIGN POWERS

The nineteenth century also marked the start of the changing balance of power between the West and the East. The European powers were ascending in supremacy whereas the Ottoman Empire was declining in power and influence. It is generally assumed that the reign of Muhammad Ali, the Vali of Egypt, was responsible to a large extent for opening up the Levant to direct European involvement. As a consequence, the foreign powers rushed to establish consular posts in all the key cities of the Levant including Damascus, competed for the commerce of the region, and intensified their missionary activities. On the diplomatic level, France, Britain, and Russia enjoyed significant influence on account of the status they enjoyed as the protectors of the Catholics, Protestants, and Orthodox respectively.

“ Although the diplomatic and missionary activities had considerable impact on the society, the economic activities were truly instrumental to the change.

The foreign powers' penetration of Damascus, and within this framework the growing trade volume, had significant consequences on its economy and social structure. The foreign activities generated social unrest, and intensified the rivalry among the different religious communities. Although the diplomatic and missionary activities had considerable impact on the society, the economic activities were truly instrumental to the change. The external trade relations, industrial production, and the shifts and changes in the grain and silk markets all contributed to crises in the local economy and to the re-ordering of the political economy.

THE OTTOMAN PORTE

Although religious and economic causes played a dominant role in shaping the newly emerging Muslim-Christian conflict, other factors were also interwoven into that complex fabric of intercommunity relations. The intensity of hatred of Christians which burst out in that place and period was determined to a considerable degree by additional factors. An interesting outcome of the analysis is that the 1860 riot was the result not only of hate but also of serious administrative disorder. Although the accounts and reports did not provide any direct evidence for the idea that the central government (Porte) in Istanbul

had encouraged the proceedings, they strongly suggest the possibility of local Ottoman authorities having acted independently. Ahmad Pasha's conduct since he was appointed by the Porte as governor-general of Damascus was neither satisfactory to the public nor to the notables and foreign consuls. Many of Ahmad Pasha's attitudes and actions and, more importantly, his troops' conduct before and during the riot of 1860 CE in Damascus suggest that he did not devote any effort to preventing or stopping the riot. He did not take any firm action to get things under control, neither before nor during the riot. The behaviour of his troops before and during the riot also added to his complicity.

Equally important is the role of the Aghawat, the heads of the irregular troops. They played a significant role in the destruction of Bab Tuma. The large number of irregular troops involved in the riot possibly suggest that it was pre-planned. The Aghawat, mainly those from al-Midan, were accomplices in the plot. The available material shows how a considerable number of Aghawat and their paramilitary forces participated in the attack of Bab Tuma. Considering that the Christians of al-Midan were unharmed by the rioters, one could conclude that the mob was directed towards that quarter for some reason other than it being a Christian quarter.

There were many tensions and conflicts in society that caused the eruption of the riot of Damascus in 1860. In addition to the causes discussed above they included competition for limited resources, educational opportunities, employment prospects, and political power among religious communities. The event was seen by many local notables at that time as breaching the norms, arrangements and boundaries of everyday social order; and therefore as extraordinary and excessive in nature. It is most important to note that the riot was not a blind eruption but appears to have been planned and organized.²



Dr. Rana Abu-Mounes completed her doctorate in Islamic Studies at the University of Aberdeen in 2016

FOOTNOTES

- 1 Benedict P, Berend N., Ellis S., Kaplan J., Makdisi U. & Miles J., 'Religious identities and violence', *American Historical Review* 112.5 (Dec. 2007), 1432-81.
- 2 For more information please see Abu-Mounes, Rana, 'European Imperial Influences, Economic Rivalries, and Religious Tension and the 1860 CE Riot in Damascus', PhD thesis, University of Aberdeen.

MUSLIM-CHRISTIAN RELATIONS IN ETHIOPIA EXPLORING THE PRICE TAG

BACKGROUND AND CONCEPTUALISATION

In the early 7th century, a group of Muslims in danger of persecution in Arabia came to the Christian kingdom of Axum in search of safe haven. By that time, Christianity was about two hundred years old in Ethiopia. The Muslim refugees were treated well, apparently prompting Prophet Mohammed to say, “Leave the Abyssinians alone”.¹

Claiming 44 and 34 per cent of Ethiopian population respectively, Christians and Muslims lived in peace for the most part of their coexistence. In fact, Ethiopia is seen as one of the few countries that boast enduring social harmony between the two religions. However, there are caveats to be added to this rather rosy characterization. The best way to understand Muslim-Christian relations in Ethiopia is by treating its appropriation at the state and community levels differently.

The Ethiopian state has always had a very hierarchical social organization. Emperors, as the heads of both the state and the church, sit on the top

of the pyramid. They are followed by nobilities, the military, ordinary citizens and finally slaves. Emperors governed the provinces through local strongmen who considered themselves as local kings. Hence, the head of the state used to be called Niguse-Negest (king of kings). Such social organization coupled with weak infrastructure meant that there was a wide gap between ordinary citizens and political elites.

In fact the unique peaceful coexistence between Christians and Muslims in Ethiopia came not from the state apparatus, but from the indigenous innovation of the ordinary people. Historically, Muslim-Christian



relations at the state level were neither smooth nor overtly violent. Mutual suspicion, subtle suppression and indirect power struggle were the hallmark of their relationship. While the Christian state depicted Muslims as “honorary guests”² with no stake in Ethiopian politics, growing in number and emboldened by foreign support, Muslims also tried to occupy the center of political power on a number of occasions.³ Nevertheless, the narrative of Muslim-Christian relations was colored by positive solidarity forged by ordinary citizens.

FACTORS BEHIND SOCIAL HARMONY

The question is: How did ordinary citizens manage to bring together the two competing religious groups to focus on a common agenda?

Attitudes: Acceptance, Not Toleration - The concept of toleration, mechachal, is not innate to Ethiopian culture and did not take a root in the Ethiopian soil for two possible reasons. Firstly, it is negative – it assumes expressing strong uneasiness with the presence of an individual or group, and yet recognizing them as a legitimate adversary. Coexisting with a religious other; however, takes a more positive posture in Ethiopia. Secondly, toleration is seen as colorless. In a communally tight society, there is hardly any demarcation between an objectionable behavior and a person with such behavior. At the core of toleration is the power to interfere when someone’s conduct is objectionable, and yet willfully relinquishing this power.⁴ In the Ethiopian moral framework, however, a public conduct is met with either outright rejection (when it stands in sharp contradiction to the societal norms), or principled acceptance (when the positive outweighs the negative). Principled acceptance propels one to dwell on the positive attribute of the other as opposed to the negative. How does this apply when it comes to competing religious claims? Behaviour is measured against societal norms such as moderation, solidarity, respect, and fairness. Even though the theological underpinnings of these norms are important, they do not surface in the actual process of negotiation. Consciously highlighting these shared values helps the religious groups not only to find a ground for solidarity, but also to overcome social irritations that might creep in as a result of theological differences.⁵ The public space is dominated more by moral considerations than by legal or theological factors.

Myth: One Covenant, One People – Why do we care about myth? Myths in Ethiopian culture are never false (even though they might be never true). They are stories of the human search for truth and meaning through the ages. As ways of coming to terms with the world, they help people harmonize their values with their daily realities. Christians and Muslims live at the intersection of two different but complementary myths. The first myth is the notion that Ethiopia is a nation of covenant. This, tradition claims, is manifest as: first, Ethiopia is mentioned in the Bible several times; second, the Queen of Sheba had a son from King Solomon, who later established a Solomonic dynasty in Ethiopia; and third, Ethiopia has inherited Israel’s covenant by hosting the Ark of Covenant and accepting Christianity as a state religion.⁶ Even though the dynasty which promoted this myth crumbled in 1976, ordinary people took this covenant-thinking further by appropriating

it to peaceful coexistence with their religious and ethnic neighbors. For them, covenant is an elastic social concept used to deal with the practicalities of daily life in a religiously and ethnically diverse society. It is more colored by patriotic inclusivism than theology.

Another story which was elevated to the level of myth was Ethiopia’s hospitality towards Prophet Mohammed’s persecuted early followers and his subsequent order, mentioned in the Hadith above, to “Let the Abyssinians alone...”. The utterance is taken as “a gesture that gave birth to a legacy of eternal gratitude”.⁷ This, in the Ethiopian imagination, seals the place of Ethiopia as a country exempted from jihad. This story is told, and retold, to convince Muslims not to stand against the society which, at a critical historical point, came to their aid.

Popular Culture: Interfaith Romance – Even though there are numerous popular songs praising inter-religious marriage, two songs from two prominent artists (Neway Debebe and Teddy Afro) are worth mentioning. Neway is a Christian singer and songwriter who is married to a Muslim woman. Among his well-received albums, his song “Amen” grabbed national attention. In this song, he praises his wife for her dedication to peace, endurance in hardship and fairness. As if to show that God has suspended religious difference when it comes to interfaith romance, the singer claims that she is a gift from heaven. Teddy Afro’s song “Shemendefer” is about a fictitious Muslim woman and a Christian man who embark on an interfaith romance. The unsettling pain of leaving one’s religious comfort zone is felt not only in the lyrics but also in the melody. The characters then appeal to two sources as a way of relieving their pain and bringing their love affair to fruition without undoing their religious commitments. One is the history of inter-religious marriage in Ethiopia – “we are Ethiopians, we are not the first to do this”. The second is purity of heart. The male character says, “Mosques and churches are separated by a fence, but God, who does not have a fence around him, listens to our prayers together”. At least two common themes run through the two songs. First, inter-faith romance is more about succumbing to the power of love than compromising their faith. Secondly, both songs divorce religious doctrines (which are divisive in nature) from the divine horizon (which is portrayed as inclusive). So, according to popular culture, interfaith romance is anchored in the organic unity of the human race rather than in the theological divergence of the religious groups.

THE PRICE OF HARMONY

Mission and Da’wah – Mission (da’wah), as a way of advancing religious causes, assumes the universality of those religious claims. In postmodern culture, universalism is challenged on the basis that, “it is immoral, it is false, and it is dangerous”.⁸ However, in Ethiopia it is challenged, not because it is false or immoral, but because it could be dangerous. In the Ethiopian psyche universal truth exists only in the divine realm. Passing judgement on sensitive theological matters is beyond the human horizon. It is only God/Allah who can make that call. As a way of escaping the danger of polemics associated with universalist claims, Christians and Muslims opt for sociocultural hybridity,

accommodation of diversity and principled acceptance rather than mission. Traditionally, the people living at the intersection of the two religions are relaxed or even superficial about their religious practices.⁹ This means that the missional edge of both religious groups has been dulled in order to sharpen communal cohesion. Thus both groups have heavily depended on biological growth, even though conversion and religious oscillation are quite common. Moderation, respect, justice and fairness are preferred to the universality of particular religious claims.

Identity – Ethiopia is a culture in which national identity – Ethiopiawinet – used to trump every other identity and consciousness. We might not sufficiently appreciate this until we understand what Ethiopiawinet means. Bellene Woldeyes elucidates it as a “concoction of tradition, superstitions, pride, faith, patriotism, community, religion, festivities, ethnicity, passivity, rigid notions of right and wrong, reservation, aggression, endurance, suppression...” which masks and eschews every other identity.¹⁰ So Ethiopiawinet is more than national consciousness; it is the Ethiopian religion of religions – a doctrine carefully and intentionally cemented into the culture by political entrepreneurs to bind together the mosaics of ethnicity and religions. Religious oscillation (conversion and reconversion) in places where people share a geographical and cultural border is somehow a normal, forgivable act. However, elevating any other identity over Ethiopiawinet receives harsh treatment. The ramification of this for the two religious groups is that social or political activism in the name of any religion contradicts the ethical framework of Ethiopiawinet.¹¹

Theology – The Ethiopian worldview, both in Islam and Christianity, is dominated by dualism. Ethiopia is a country of “wax and gold” – a literary system, which plays with double layered meanings. While the wax is what can be observed or heard on the surface, the gold signifies the deeper layer often concealed by what is visible. I argued in my book¹² that the Ethiopian wax and gold tradition is more than a

literary system. It signifies the Ethiopian psyche, philosophy and way of life. This cultural current therefore shapes the Ethiopian worldview. Monasticism and the ascetic life in Orthodox Christianity and Sufi Islam both elevate the spiritual over the material. However, this seems to be abandoned when it comes to social interaction. Theological consistency is sacrificed on the altar of social pragmatism and the metaphysical is trumped by the physical. Ideas such as God, salvation, ethics and the eschaton (last things) are not dealt with and are often compromised on. Moreover, conceptions of foundational social institutions such as family and marriage are also among the direct casualties of such a pragmatic approach. Thus, whilst inter-religious marriage in Ethiopia is forbidden for both Muslims and Christians, it is in fact common. Conversion for marriage is not unusual and even interfaith marriage without conversion is largely tolerated.¹³

Whilst Ethiopia has an enviable history of warm Muslim-Christian relations and peaceful coexistence, it has come at a price. Proselytism, religious identity and even theology have all to a degree been sacrificed to ensure a social harmony which is shored up by moral attitudes, national religious myths and popular culture. It is an open question to what extent Ethiopia could or should provide a model for other nations and to what degree Christians and Muslims elsewhere would want to endorse such an arrangement.



Dr. Mohammed Girma is an International Advocacy Officer for the Bible Society

FOOTNOTES

- 1 Sunan Abi Dawud, Book 38, Hadith 4288
- 2 Girma, Mohammed. 'Clash of ideologies and survival of evangelical movement in Ethiopia', *Journal for the Study of Religions and Ideologies*. 2011; 10 (30): 390-396.
- 3 Shinn, David, 'Ethiopia: Coping with Islamic Fundamentalism before and after September 11', *African Notes*, No.7, February 2002.
- 4 Horton, John, 'Toleration as a Virtue' in Heyd, D. (ed) *Toleration: An elusive virtue*, Princeton: Princeton University Press, 1996, 28.
- 5 Hussien, Ahmed, 'The Historiography of Islam in Ethiopia', *Journal of Islamic Studies* 3 (1), 1992, 18.
- 6 Budge, E. A. W. 'The kibre negest: The glory of kings', 1922.
- 7 Erlich, Haggai, *The Cross and the River: Ethiopia, Egypt, and the Nile*, London: Lynne Rienner Publishers, 2002, 25.
- 8 Huntington, Samuel, *The clash of civilizations, and the remaking of world order*, New York: Simon and Schuster; 1996, 310.
- 9 Abbink, Jan, 'Transformations of Islam and communal relations in Wallo, Ethiopia' in Soares B. & Otayek R., *Islam and Muslim Politics in Africa*. Palgrave Macmillan US, 2007, 65-83.
- 10 Billene Seyoum, Woldeyes, *Enabling Authentic Female Leadership through Self Transformation. The Case of AWiB*. Vol. 10. LIT Verlag Münster; 2014, 16.
- 11 Boylston, Tom, *The Shade of the Divine*, PhD thesis, London School of Economics, 2012, 23.
- 12 Girma, Mohammed, *Understanding Religion and Social Change in Ethiopia: Toward a Hermeneutic of Covenant*, Palgrave Macmillan, 2012.
- 13 Spielman, David. 'One Law for Us All: A History of Social Cohesion through Shared Legal Tradition among the Abrahamic Faiths in Ethiopia', 2015, 27.

FREEDOM OF RELIGIOUS EXPRESSION AT WORK: ISSUES FACING MUSLIMS AND CHRISTIANS.

Practising Muslims and Christians face some common issues in the workplace, including: matters related to the wearing of religious symbols; religious observance during work time; and refusing to undertake work tasks due to religious conviction. In these cases the secular courts often have to decide what is 'proportionate', that is what is reasonable allowance whilst weighing up all the various rights, freedoms and obligations. In the cases cited below some of the religious applicants were successful whilst others were not.



that religious freedom does require a measure of protection at work, although it can be restricted when it is proportionate to do so in order to protect other interests. For example, a need to protect health and safety meant that a nurse called Chaplin was unsuccessful in her claim to be allowed to wear a cross on a chain whilst working on the ward;¹ and in *Ebrahimiyan v. France* a refusal to allow a hospital social worker to wear the hijab was proportionate, having regard to the principle of secularism in the French Constitution, and the more general lack of consensus across Europe on the issue.

The Equality Act 2010 prohibits direct and indirect discrimination, victimisation and harassment at work. Direct discrimination occurs where a person is treated less favourably on grounds of religion and belief, and includes where employers refuse to employ religious staff, or employ those of one religion on more favourable terms than others. An exception exists where, because of the nature of the occupation or its context, a religion or belief constitutes an occupational requirement for the job in question. Here, any resulting discrimination will be lawful as long as it is proportionate to impose that requirement.² An additional exception exists where the employer is an organisation with a religious ethos, such as a religious charity, in which case the religious ethos can be taken into account in assessing the proportionality of any religious work requirement.³

Indirect discrimination occurs where a provision, requirement or practice puts those of a particular religion or belief at a particular disadvantage compared with others. It can be justified where there is a legitimate aim for the requirement and the means of achieving the aim are appropriate and necessary.⁴

THE LEGAL FRAMEWORK

In the UK, the expression of religious convictions in the workplace is governed by the Equality Act 2010, which prohibits discrimination on grounds of religion or belief. Religious expression is also protected through the Human Rights Act 1998 under which domestic law is interpreted to comply with the European Convention on Human Rights.

Until 2013, the case law of the European Court on Human Rights suggested that under Article 9 the right to religious freedom was protected by freedom to resign, so effectively protection was not offered at work. In 2013 in *Eweida v UK*, the Court instead accepted

SPECIFIC ISSUES FACING MUSLIMS AND CHRISTIANS

Wearing of religious symbols at work

A common issue that has arisen relating to the expression of religious convictions by both Christian and Muslim staff is that of religious dress requirements. The requirement to wear a particular uniform may potentially be indirectly discriminatory, and will need to be justified as a proportionate means of achieving a legitimate aim. Three cases illustrate the approach to this type of religious expression:

In *Azmi v Kirklees Metropolitan Borough Council* a teaching assistant was dismissed for refusing to remove her niqab in class.⁵ The Court accepted that there was potentially indirect discrimination as the requirement to uncover her face put Azmi at a particular disadvantage compared with others. However, the Court held that the requirement was proportionate given the educational interests of the children, who needed to be able to see the teacher's face. The implication is that a restriction on the wearing of a hijab, as opposed to a niqab, would not have been proportionate for a teaching assistant in a state school, the face being fully visible.

“ The expression of religious convictions at work through dress codes and working time provides a clear illustration of the approach of British courts to balancing interests in religion cases.

In *Eweida* the Court found a restriction on wearing a cross at work was disproportionate. Factors which led to this decision included the fact that headscarves and turbans were allowed by British Airways. In addition, the need to maintain a particular corporate image did not outweigh *Eweida's* interest in freedom of religion. In contrast, in *Chaplin*, health and safety reasons were sufficient to outweigh the employee's religious interests. Further decisions on this issue from the Court of Justice of the European Union are currently awaited.

Religious observance during work time

Where a requirement to work given hours creates a difficulty for the religious member of staff, such a requirement may also potentially be indirectly discriminatory, and will need to be justified. Religious staff will sometimes request time off during working time to participate in prayer or religious observance. Refusal of such requests may amount to potential indirect discrimination,⁶ and will therefore need to be a proportionate means to achieve a legitimate aim.

A legitimate aim may be the requirement for a constant presence during specific working hours. However, the question of proportionality will depend on issues such as the requirements for cover during the member of staff's absence, the ease with which shifts can be swapped between staff, the availability and cost of cover, the length of time off requested, and the frequency of requests.

Refusal of work tasks

Some staff may wish to be exempted from carrying out tasks that conflict with their religious convictions, for example selling alcohol or handling meat products. Employers may refuse such requests, but refusal will need to be proportionate, and so when it would be easy to allow the request it could be indirectly discriminatory to refuse it.

CONCLUSION

The expression of religious convictions at work through dress codes and working time provides a clear illustration of the approach of British courts to balancing interests in religion cases. The importance of religious expression to the religious individual is recognised, but equally Courts recognise the importance for clients and colleagues to be able to work or access services in a religiously neutral environment.

In general, the cases show the importance of a fact sensitive approach when assessing the proportionality of any restrictions on the expression of employees' religious convictions at work. They also confirm that limits on religious expression are often proportionate, when such expression interferes with the rights of others.



Prof. Lucy Vickers, Department of Law, Oxford Brookes University

FOOTNOTES

- 1 *Chaplin's* case was heard alongside *Eweida's* in *Eweida v UK* (2013). (application no. 64846/11) decision of 26.11.15.
- 2 Equality Act 2010 Schedule 9 (1).
- 3 Equality Act 2010 Schedule 9 (3).
- 4 Equality Act 2010 S 19.
- 5 *Azmi v Kirklees Metropolitan Borough Council* [2007] ICR 1154.
- 6 It could be direct discrimination if an employer allows some religious individuals time off and not others, and the reason for the different treatment is religion.

BRITISH MUSLIM PRISONERS: CHALLENGES AND OPPORTUNITIES OF A MULTI-FAITH AGENDA.

I have been researching Muslim populations and crime for over twenty years and was initially drawn to the institution of prison as a result of my engagement as a research fellow at the University of Warwick on the first substantially funded research project on the matter in 2001.¹ Since then only a handful of empirical studies have emerged despite significant interest by the media, government and prison service professionals.² The issue of radicalisation and securitisation of prisons has prompted a further tranche of more recent academic research as well as a formal review by the Ministry of Justice.³

The prison environment remains a useful one to explore the significance of the incarcerated population to broader issues of criminal justice and society. Prisons have also been the site for debates, contests, accommodation and compromises in terms of a multi-faith agenda.

MUSLIMS IN UK PRISONS

Data on the religious affiliation of prisoners in England and Wales has been collected for many decades by virtue of a statutory obligation in the Prison Act 1952. The Muslim prisoner population has experienced rapid increase compared to the proportion of Muslims in the general

populations irrespective of their religious affiliation. Despite general security concerns over the last few years, the vast majority of Muslim prisoners have not been imprisoned for terrorism related offences. Of the 2297 people arrested for terrorism related offences between 2001 and 2012, 1066 (41%) were Muslim and 436 went on to be charged. Only 175 of these were convicted, accounting for a very small percentage of the increase in Muslim prisoners over the last decade and a half.⁵

FAITH CHALLENGES IN PRISONS

Despite media reports to the contrary, prisoners retain all rights enjoyed by free citizens apart from those which are inconsistent with their condition of incarceration (e.g. freedom of movement) or those against which Parliament has expressly legislated (e.g. the right to vote). Prisons are therefore obliged to facilitate rights relating to worship and religious practice. There is a need to provide consistency within the prison estate and hence all rules and procedures are contained in formal Prison Service Orders. These Orders were traditionally under the remit of race and religion but more recently have been conceived under the generic banner of ensuring equality.

The challenges presented by this obligation to fulfil religious rights are considerable given the practical restrictions posed by the prison environment. In the case of Muslim prisoners, due consideration is given to enable a halal diet, space for prayers, access to water and ablution facilities, religious texts and objects. There are further challenges presented by the celebration of festivals or observing fasting during the month of Ramadan. Prisoners with diverse religious requirements also prompt a need to train and educate staff about faith practices and how to fulfil their institutional duties.



UK population, and currently represents about 14 per cent of the total prison population.⁴ This is approximately three times the representation of Muslims in broader society. There is evidence of conversion to Islam in prison, which partly explains a greater representation of Black Muslims in prison as compared to their representation in the census. Other reasons for such over-representation may link to the general thesis that the criminal justice system disproportionately criminalises Black British

Traditionally, Anglican chaplains have been at the forefront of managing prison chaplaincy in terms of distribution of resources, undertaking statutory duties and pastoral support of prisoners. The prison chapel is also a site for potential conflict as a consecrated space that is used for a wide range of faith groups as well as secular meetings. A further challenge presented by prison is the prohibition on proselytism, which particularly impacts evangelical faith groups where conversion is an essential goal. An additional tension, explored by some academics, is the contrast between religious pluralism in society and a need for standardisation or institutionalised interpretations of religion in prison. With regard to Islam, the prison service was obliged to create an office of the Muslim Advisor who is responsible for all matters pertaining to the religious provision of Muslim prisoners.

The task of the Muslim Advisor is to represent pluralism in terms of the varied schools of jurisprudence and sects within Islam whilst producing consistent guidance to prison managers about how religious practices and rights can be enabled.

DISCRIMINATION IN PRISON

The issues outlined above have fed into findings of significant discrimination against Muslim prisoners as reported by independent academic qualitative and quantitative research as well as from formal HM Inspectorate of Prison reports.⁶ Adopting an intersectional approach, Muslim prisoners often straddle both a minority faith identity as well as being ethnic minorities, which potentially exposes them to both religious and racist discrimination. The form of discrimination is varied and, whilst explicit racially motivated violence has not been a prominent feature of the academic findings, there has been consistent evidence of racist language and violation of religious items from fellow prisoners. With regard to treatment from prison officers, the research highlights experiences of racist language, de-humanising practices around strip and cell searches and more subtle complaints such as denial of access to prayer facilities. The securitisation agenda has also meant Muslim Chaplains are viewed with increased suspicion in terms of their loyalties in countering extremism.

OPPORTUNITIES

Notwithstanding the critical points raised above, prisons represent unique opportunities for cooperation and multi-faith working. Prison chaplains have engaged in multi-faith initiatives such as community chaplaincy schemes, the establishment of an umbrella organisation known as 'The Community Chaplaincy Association', and the establishment of a Prison Chaplaincy Council.

In fact, prison chaplaincy represents one of the few places in British society where formal representatives of different faiths regularly have

social contact. The role of the chaplain as confidante and advocate for prisoners en route to rehabilitation should not be lost. Moreover, prisons have also provided an opportunity for the professionalisation of imams in terms of a civil service career. Indeed, the recent emphasis on extremism and Islamic radicalisation places Muslim chaplains, and chaplaincy more broadly, at the forefront of de-radicalisation policies.

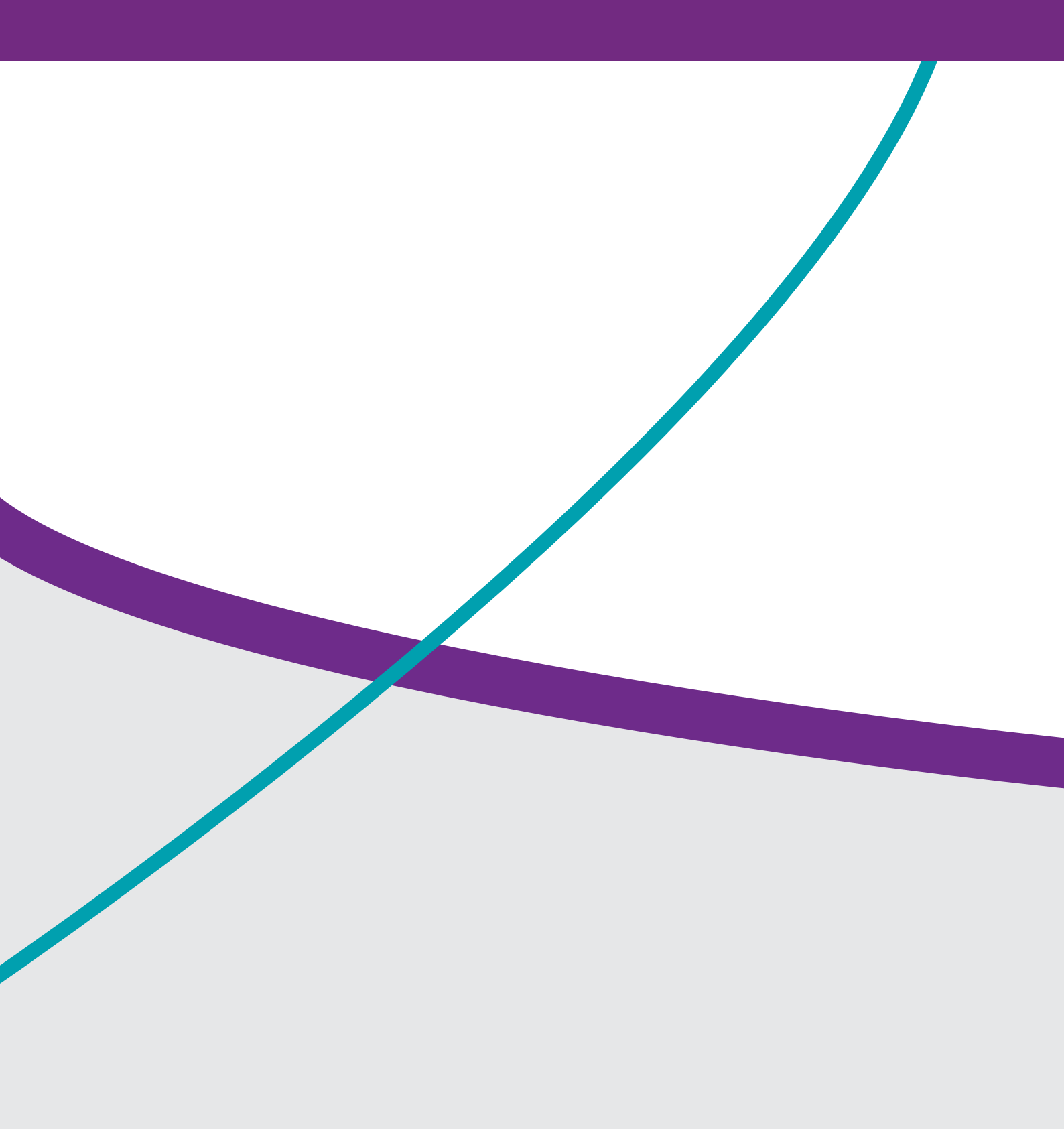


Dr Muzammil Quraishi, Senior Lecturer in Criminology & Criminal Justice, University of Salford

FOOTNOTES

- 1 Beckford, J.A., Joly, D., Khosrokhavar, F. *Muslims in Prison: Challenge and Change in Britain and France*. (Hampshire. Palgrave Macmillan, 2005)
- 2 See Spalek, B. and El-Hassan, S. 'Muslim converts in prison', *The Howard Journal of Criminal Justice*, 46, 2. 99-114, 2007, and Marranci, G. *Faith, Ideology and Fear: Muslim Identities Within and Beyond Prisons*, (London & New York: Continuum, 2009), and Liebling, A., Arnold, H. 'Social Relationships between prisoners in a maximum security prison: violence, faith and the declining nature of trust', *Journal of Criminal Justice*, Vol 40 (5), Sep-Oct, 413-424, 2012
- 3 See Awan, I. 'Muslim Prisoners, Radicalisation & Rehabilitation in British Prisons'. *Journal of Muslim Minority Affairs*, Vol 33 (3), 371-381, 2013 and Ministry of Justice, 'Summary of the main findings of the review of Islamist extremism in prisons, probation and youth justice'. 22 August 2016. London, NOMS, Crown: 2016 <https://www.gov.uk>
- 4 Ministry of Justice, *Statistics on Race and The Criminal Justice System*, 2014. Nov 2015 <https://www.gov.uk>
- 5 See the 2013 Home Office report 'Terrorism arrests - analysis of charging and sentencing outcomes by religion' available at www.gov.uk
- 6 Quraishi, M. 'Race, religion and human rights: valuable lessons from prison' chapter 12 in M. Cowburn, M. Duggan, A. Robinson, P. Senior (eds) *Values in Criminology and Community Justice*. (Bristol. Policy Press, 2013); and HMIP *Muslim Prisoners' Experiences: A Thematic Review*. Her Majesty's Inspectorate of Prisons, London. HMSO. June 2010.





THE CENTRE FOR MUSLIM-CHRISTIAN STUDIES
THE SONG SCHOOL
109A IFFLEY ROAD
OXFORD
OX4 1EH

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