

Supporting dossier on the situation of the non-religious

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Humanists International, Inc. is a US not-for-profit 501-c(3) registered in New York (Registered address: 1821 Jefferson PI NW, Washington, DC 20036). Humanists International is also the trading name of Humanists International 2020, a Scottish (UK) charity no. SC050629. Registered address: 272 Bath Street, Glasgow, G4 2JR, UK. Principal Office: 17 Oval Way, London, SE11 5RR, UK.

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International human rights norms relating to the right to asylum of the non-religious

UNHCR 'Guidelines on International Protection: Religion-Based Refugee Claims under Article 1 A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees'¹ establish the framework for the consideration of religion or belief-based claims to asylum.

The right to freedom of religion or belief is enshrined in Article 18 of the International Covenant on Civil and Political Rights and Universal Declaration of Human Rights, which provides:

"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 others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."²

UN General Comment No. 22³ provides further clarification that,

"Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms 'belief' and 'religion' are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions."

International law is therefore clear in conveying the right to manifest one's beliefs equally to all, limited only by restrictions that are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Although many individuals reaching out to Humanists International report having to hide their non-religious beliefs from even close family members, many report the serious psychological burden that not living by one's deeply held convictions places upon them. International human rights mechanisms have made clear that ***"religious belief, identity or way of life is considered as so fundamental to human identity that***

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<https://www.unhcr.org/uk/publications/legal/40d8427a4/guidelines-international-protection-6-religion-based-refugee-claims-under.html>

² <https://www.ohchr.org/en/issues/freedomreligion/pages/standards.aspx>

³ General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18). 48th sess, UN Doc CCPR/C/21/Rev.1/Add.4 (27 September 1993), [1].

one should not be compelled to hide, change or renounce it in order to avoid persecution.⁴

In February 2020, when reviewing the case of Q.A. v Sweden - the case of a Afghan man who converted to atheism in Sweden - the Human Rights Committee opined that, as his atheist beliefs had been publicized on social media and online news outlets, it was highly likely that his identity would be known in the event of his return to Afghanistan, thus putting him at risk of ill treatment.⁵ Based on his atheism, together with other factors, the HRC held that his return would amount to a violation of Articles 6 and 7 of the ICCPR.

Most recently, the Norwegian Ministry of Justice revised its guidelines to ensure that asylum seekers who are atheists / non-believers are equated with those who apply for asylum on the basis of conversion. The change in guidelines also paved the way for the approval on appeal of the asylum claim of Afghan humanist Josef Moradi.⁶

Afghanistan

Last Updated 6 October 2021

Afghanistan has suffered from chronic instability and conflict in its modern history from the Cold War to the civil wars between the Mujahedeen and the Taliban. Most recently, Afghanistan has been the stage of the Afghan War (2001-2014) – fought between a coalition of US, NATO and Afghan troops against the Taliban. International actors had maintained a peacekeeping force in Afghanistan until August 2021 when all troops were formally withdrawn following a peace deal brokered between the US and the Taliban. The withdrawal of all troops saw the Taliban violate the peace agreement, swiftly moving in to take control of the country and re-establish the Islamic Emirate of Afghanistan, reinstating Sharia Law.¹

The predominantly ethnic Pashtun Taliban emerged as a political force in 1996, when they took control of the capital Kabul and changed the name of the country

⁴ ECtHR ruling F.g. v Sweden, para 52, no 43611/11, 23 March 2016: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-161829%22%5D%7D>; <https://eclj.org/religious-freedom/echr/la-cedh-reconnait-la-dimension-publique-de-la-foi-pour-empacher-une-expulsion>

⁵ <https://undocs.org/CCPR/C/127/D/3070/2017>; <https://www.asylumlawdatabase.eu/en/content/human-rights-committee-state-failed-adequately-assess-real-risk-ill-treatment-event-return>

⁶ <https://humanists.international/2021/02/norway-long-term-work-for-non-religious-asylum-seekers-yields-results/>

from the Islamic Republic of Afghanistan to the Islamic Emirate of Afghanistan. Their rule was characterised by the near-total exclusion of women from public life and strict application of Islamic law.²

Since the takeover, the Taliban have reportedly summarily executed local government officials and state security personnel, as well as raided the homes of government officials, journalists and human rights defenders. In addition, women’s rights have been significantly restricted.³

Historically, Afghanistan was religiously diverse, but the vast majority of non-Muslims fled after the Taliban consolidated control of the government in 1996. As a result, current estimates suggest that 99.7% of the country are Muslims – the majority of whom are Sunni.⁴ A small proportion, estimated to be less than 1%, are followers of other religions, such as Hindus, Sikhs, Bahá’ís, Christians, Buddhists, and Zoroastrians.⁵ There are no estimates available for the number of non-religious or humanist individuals; those living in the country live in secrecy for fear of direct persecution.

Constitution and government	Education and children’s rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
State legislation is largely or entirely derived from religious law or by religious authorities	Religious or ideological indoctrination is utterly pervasive in schools	<p>Expression of non-religious views is severely persecuted, or is rendered almost impossible by severe social stigma, or is highly likely to be met with hatred or violence</p> <p>Government figures or state agencies openly marginalize, harass, or incite hatred or violence against the non-religious</p>	<p>Expression of core Humanist principles on democracy, freedom and human rights is brutally repressed</p> <p>‘Apostasy’ or conversion from a specific religion is outlawed and punishable by death</p> <p>‘Blasphemy’ or criticism of religion is outlawed and punishable by death</p>
		It is illegal to register an explicitly Humanist, atheist, secularist or other non-religious NGO or other human rights organization, or such	It is illegal to advocate secularism or church-state separation, or such advocacy is suppressed

	groups are persecuted by authorities
Religious or ideological instruction is mandatory in all or most state-funded schools with no secular or humanist alternative	<p>Systemic religious privilege results in significant social discrimination</p> <p>Government authorities push a socially conservative, religiously or ideologically inspired agenda, without regard to the rights of those with progressive views</p> <p>Prohibitive interreligious social control (including interreligious marriage bans)</p> <p>Religious control over family law or legislation on moral matters</p>

Constitution and government

As a newly declared “Islamic Emirate”, a religious leader will now serve as the ultimate authority on law and governance of the nation, based on the Taliban’s interpretation of Islam – derived from Deobandi strand of the Hanafi school of Islam.⁶

At the time of writing, Afghanistan’s 2004 Constitution remained in place, however, the Taliban are reported to be planning to re-institute the 1964 Constitution.⁷

Under the current (2004) Constitution,⁸ State legislation is largely derived from religious law. Article 3 declares that Islam is the state religion and that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam”, effectively meaning that where tensions exist, or where the Constitution or Penal Code are silent, such as is the case with ‘apostasy’ and ‘blasphemy’, the courts must rely on the Hanafi School of Sunni Islamic jurisprudence, even where doing so would breach the country’s international commitments under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

The 2004 Constitution also grants that Shia law may be applied in cases dealing with personal matters where all parties are Shiite. But there is also no separate law applying to non-Muslims. Non-Muslims may not provide testimony in matters requiring Hanafi jurisprudence.⁹

Although officially independent from the government, members of the Ulema Council – the highest religious body in the country – receives financial support from the State.¹⁰

The government's national identity cards indicate an individual's religion as well as nationality, tribe, and ethnicity.¹¹ In the current political climate, members of religious minority groups fear being targeted as data on their religious affiliation (provided they told the truth) is in the hands of the Taliban government.¹²

According to the 2004 Constitution, the president and vice president must be Muslim. This requirement is not explicitly applied to government ministers or members of Parliament, but each of their oaths includes swearing allegiance and obedience to the principles of Islam.

On 7 September 2021, the Taliban announced an all-male caretaker government including an interior minister wanted by the FBI, as well as the reinstatement of the Ministry for the Enforcement of Virtue and Prevention of Vice (*al-Amr bi al-Ma'ruf wa al-Nahi àn al-Munkir*) – a ministry dedicated to the enforcement of the Taliban's extreme interpretation of Islamic law.¹³

Impunity

According to Human Rights Watch,¹⁴

“Impunity for grave abuses has long been a problem in Afghanistan, where the current and previous governments have largely failed to hold officials accountable for rights violations or prosecuted pro-government warlords and militias for serious abuses. The Taliban claim that they hold members of their ranks, including commanders, accountable for abuses, but this has meant little in practice since Taliban officials have seldom considered many human rights abuses and violations of international humanitarian law as wrongful acts.”

Education and children's rights

Since the Taliban's takeover in August 2021, girls have once again been banned from obtaining a secondary education.¹⁵

As a result of conflict and humanitarian crises, the lack of schools and insecurity, many children remain out of school in Afghanistan – the majority of whom are female. Low enrolment of girls is linked to a lack of female teachers, especially in rural areas, and by socio-cultural factors and traditional beliefs.¹⁶ Child marriage is a persistent problem, with 17% of girls married before their 15th birthday.¹⁷ According to Human Rights Watch,¹⁸

“as Taliban forces advanced in recent years, few among them allowed girls to attend school past puberty; others banned girls' schools entirely.”

At the time of reporting, there remained a lack of clarity as to the direction of education more generally under the Taliban. However, research suggests that the Taliban's stance on education in general may have evolved over the last two decades, it has also been noted that:

“While the Taliban wants more education resources and to be recognised for supporting education, it is increasingly trying to control and shape how education is provided. [...] The Taliban's policies and practices are not black and white, and there is considerable geographic variation.”¹⁹

Taliban educational policy documents dating to 2019 suggest that:

“The first objective [of education] is to fulfil spiritual needs and development, in so far as education is essential for an Islamic society. Ensuring all forms of education respect and adhere to Islam is a central principle.”

Policy documents suggest that the Taliban also see the value of education to “meet the necessities of life,” including subjects such as Pashto, Dari, sciences, mathematics, and IT, alongside religious instruction. However, global think tank, ODI notes,²⁰

“in many ways, the Taliban’s vision does not correspond to reports from the ground. Yet the Taliban’s policy and statements matter because they express an aspirational vision for education. The Taliban has had a long tradition of articulating its ambitions via policy long before it has the resources and coherence to bring them into being.”

Article 83 of a Taliban policy document²¹ reportedly reads:

“Teaching inappropriate and inaccurate subjects such as anti-jihad topics, immoral and anti-religion topics related to Muslim women, and subjects derived from the infidel laws, and other similar topics shall not be allowed.”

Religion in schools

Historically, the primary focus of all schooling is instruction in Islam. According to the Constitution, the “state shall devise and implement a unified educational curriculum based on the provisions of the sacred religion of Islam, national culture, and in accordance with academic principles, and develop the curriculum of religious subjects on the basis of the Islamic sects existing in Afghanistan.”

In government-controlled schools, religious education has been taught more than general education – this was particularly the case in areas where the Taliban held influence.²² In privately run madrassas, the schooling has been even more skewed, with the instruction almost entirely religious.²³

Article 79 of a Taliban education policy document²⁴ dating to 2019 states that the nation’s religious education curriculum is:

“designed for the Muslim boy or/and girl is to teach the beliefs of the holy religion of Islam, the necessary ancillary provisions according to the Qur’an, Sunnah, and the Hanafi sect, to teach the necessary reading and writing skills and also obtaining some historical and geographical knowledge.”

Violence targeting schools

Over the course of the past two decades, schools have regularly been targeted for attack.²⁵ In the first six months of 2021, 40 schools were attacked with explosive

weapons, resulting in the deaths of 185 teachers and students, the majority of whom were women and girls.²⁶

Non-state armed groups – including ISIS-K and the Taliban – used explosive weapons to target girls' education in Afghanistan at least twice a year between 2018 and mid-2021, Non-state armed groups – including ISIS-K and the Taliban – used explosive weapons to target girls' education in Afghanistan at least twice a year between 2018 and mid-2021, reportedly killing or injuring at least 160 female students and education personnel and damaging or destroying at least five girls' schools.

Family, community and society

Political insecurity and violence against religion and belief minorities

Article 2 of the Constitution explicitly states that followers of religions other than Islam are “free to exercise their faith and perform their religious rites within the limits of the provisions of the law” implying that Islam is privileged in some way – even implying a trump on the law. In practise, religion and belief minorities have faced significant barriers to the free exercise of their rights.

In its 2020 Report on Religious Freedom in Afghanistan,²⁷ the United States Commission on International Religious Freedom (USCIRF) stated that:

“Despite [efforts made by the authorities], the small communities of religious minorities – including Hindus, Sikhs, Christians, Ahmadi Muslims and Baha'is, who experienced egregious human rights violations under Taliban rule – remained endangered, without the ability to observe their faith publicly for fear of violent reprisal by terrorist groups or society at large.”

Indeed, attacks perpetrated by Islamist militants in Afghanistan did not cease over the course of the implementation of the peace deal.²⁸ Several of the attacks were targeted at religious minority groups.²⁹

Throughout the State Department's report, the non-religious go unmentioned. From this, one could conclude that it is because holding a religion other than the

dominant Sunni Islam is already so dangerous that admitting to holding no religious faith is too dangerous still.

Since the Taliban takeover on 15 August 2021, there have been reports of the Taliban seeking out members of religious or belief minority communities.³⁰ For example, in August 2021, Amnesty International reported the murder of nine ethnic Hazara men.³¹ Humanists International has also received, as yet unconfirmed reports, of the murders of at least two atheists, and disappearance of 4 others since the fall of Kabul. Some, as yet unsubstantiated reports, suggest that the Taliban may also be paying groups to attack them on their behalf so that they can claim innocence.

Promotion of Virtue and Elimination of Vice

The ministry for promotion of virtue and prevention of vice – a ministry dedicated to the enforcement of the Taliban’s extreme interpretation of Islamic law – was officially reinstated in September 2021. However, the policing of “vice and virtue” has been an ever-present threat in areas that remained under Taliban control.³²

During the former Taliban government, the ministry was one of the government’s most powerful offices, banning music and television, requiring women and teenage girls to wear a *burqa* and be accompanied by a male member of the family (*mahram*) when outdoors, and requiring men to grow beards. Beatings were a common punishment for failures to comply.³³

So-called “morality” officials have monitored residents’ adherence to Taliban-prescribed social codes regarding dress and behaviour, including policing beard length, men’s attendance at Friday prayers and the use of technology. Punishments for infractions since 2001 have ranged depending on those enforcing the rules in the respective province; while corporal punishment has been rare, the Taliban have been known to imprison residents or subject them to beatings.³⁴

Women’s rights

According to the London School of Economics and Political Science (LSE),³⁵

“Since the start of the peace process, the Taliban have made persistent claims guaranteeing women’s security in Afghanistan. In the now-defunct Alemarah

website, they claimed to have ‘a clear and universal policy regarding rights of women’, and committed to ‘eradicating all unlawful customs and traditions against women’. Since taking Kabul, the Taliban have publicly stated they will allow women to continue to be active in society, benefit from their rights, and work ‘shoulder to shoulder’ with the Taliban within Islamic sharia.”

The lived reality for women on the ground is reported to include women’s rights activists having gone into hiding, while women who fail the hijab ‘incorrectly’ face beatings.³⁶ Unmarried or widowed women between the ages of 15 and 45 are reported to face the threat of forced marriages and sexual enslavement to Taliban fighters.³⁷

In September 2021, the Taliban announced that women would not be able to attend university or work until it was possible to ensure segregation of the sexes and an “Islamic environment.”³⁸ The Taliban imposed a similar “temporary measure” when it came to power in 1996, which was not lifted until the US invasion ousted the Taliban government in 2001.³⁹

Violence against women

UNAMA reports that “violence against women – murder, beating, mutilation, child marriage; giving away girls for dispute resolution (*baad*) and other harmful practices – remain widespread throughout Afghanistan, notwithstanding the Government’s concrete efforts to criminalize these practices and establish measures for accountability.”⁴⁰

Since 2009, the Afghan authorities had sought to improve protections for women facing domestic violence,⁴¹ however, according to research by Human Rights Watch,⁴²

“prosecutors, judges, and lawyers who had tried to provide women with a measure of justice are in hiding themselves, fearing reprisals by the Taliban. And with shelters closing, those who called them home have no choice but to return to their abusive families. Afghanistan’s hard-won progress on women’s rights is abruptly disappearing before their eyes.”

In Taliban-held provinces prior to the 15 August 2021 takeover, women and girls who were victims of domestic violence, faced limited possibilities for justice through Taliban courts. Taliban courts have imposed brutal punishments such as lashing on men and women for so-called moral crimes (such as *zina* – sex outside of marriage). These punishments deter women from fleeing abusive situations in the home.⁴³

In February 2020, the Taliban shot and killed a pregnant woman in Baghlan Province, who had been accused of adultery.⁴⁴

LGBTI+ Rights

In February 2018, Afghanistan adopted a new Penal Code⁴⁵ that explicitly criminalizes consensual same-sex relations. The Penal Code punishes *musaheqeh* (sexual relations between women) with up to one year in prison. It punishes sodomy, defined as “penetration of a male sexual organ into a female or a male anus,” with up to two years in prison.⁴⁶

However, under the Taliban’s strict interpretation of sharia law, members of the LGBTI+ community accused of same-sex sexual relations may face the death penalty or extra-judicial killing.⁴⁷ According to Amnesty International, at least one person is thought to have been beheaded by the Taliban in September 2021.⁴⁸

Freedom of expression, advocacy of humanist values

Freedom of expression is theoretically guaranteed in Afghanistan – unless it acts against national interests or personal privacy – under Article 34 of the Constitution. In practice, however, such freedom has rigid margins and limitations, in particular when it runs up against religion.⁴⁹

Article 3 of the 2004 Constitution (“no law shall contravene the tenets and provisions of the holy religion of Islam in Afghanistan”) is often invoked both by clerics and government officials to contest the application of any secular regulation, including the two human rights conventions that Afghanistan is a party to, and particularly with respect to non-believers, apostates and women rights.

The 2009 Mass Media Law prohibits the production, reproduction, printing, and publishing of works and materials contrary to the principles of Islam or offensive to other religions and denominations.⁵⁰ It also prohibits publicizing and promoting religions other than Islam and bans articles on any topic the authorities deem might harm the physical, spiritual, and moral well-being of persons, especially children and adolescents.

The ambiguity surrounding what constitutes offensive and un-Islamic material offers the potential for restrictions on and abuse of press freedom and intimidation of journalists. These rules also apply to non-Muslims and foreign-owned media outlets.

Throughout the conflict, journalists have been the subject of targeted killings carried out by both state and non-state actors.⁵¹ In August 2021, at least two members of Afghan PEN – a journalist and a poet – were killed in targeted attacks.⁵²

Culture and artistic expression

Bans on technology and the playing of music have been in place in Taliban-controlled areas, such as Helmand or Kunduz provinces, for years; enforced by civilian “police.” Access to technology is also tightly controlled in order to prevent individuals watching videos or listening to music.⁵³ Enforcement has been gradual, building from warnings for infractions towards beatings for repeated rule-breakers. On 26 August 2021, the Taliban declared that music had once again been banned across the country.

In August 2020, the Taliban reportedly killed a local singer in Takhar Province as he returned home from a wedding.⁵⁴ On 28 August 2021, celebrated Afghan folk singer Fawad Andarabi was shot dead at his home in the Andarab Valley in the northern Baghlan province. This incident occurred two days following the announcement by Taliban spokesperson Zabihullah Mujahid that music was ‘forbidden in Islam’.⁵⁵

Freedom of assembly

On 7 September 2021, the Taliban announced that protests, in general, are illegal unless approved ahead of time. Journalists covering some protests have said that Taliban officials have told them that reporting on protests is also now illegal.⁵⁶

Demonstrations against the Taliban's implementation of restrictions on the rights of women and girls have been broken up, with protesters facing beatings.⁵⁷

Attacks on human rights defenders

Systematic death threats, attacks, and killings of human rights defenders have been rampant across Afghanistan even prior to the withdrawal of US troops. According to a briefing produced by Amnesty International, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT),⁵⁸

“Attacks on human rights defenders have been reported on a near-daily basis since 15 August. The Taliban are conducting door-to-door searches for human rights defenders, forcing many into hiding.”

It is now believed to be almost impossible for human rights defenders to operate on the ground.

Attacks on journalists and media freedom

According to Human Rights Watch,⁵⁹

“Taliban commanders and fighters have long engaged in a pattern of threats, intimidation, and violence against members of the media, and have been responsible for targeted killings of journalists.”

Taliban authorities in Afghanistan have been detaining and assaulting journalists and imposing new restrictions on media work.⁶⁰

“Apostasy”

According to the Article 1 of the Penal Code, punishments for *Hudud* and *Qisas* crimes, including apostasy are inflicted in accordance with the Hanafi Jurisprudence of Sharia law, which includes the death penalty for non-believers and apostates.

With regard to non-believers and apostates, very few incidents are recorded, though this probably means that many converts and dissenters from Islam generally are simply too afraid to speak out. Assuming or defending any right to criticize, abandon

or renounce Islam is considered a taboo even by many people who adhere to broadly democratic values.

The criminal code makes no specific references to religious conversion. However, in the absence of a provision in the Constitution or other laws, Article 130 of the Constitution instructs that court decisions should be in accordance with constitutional limits and Hanafi religious jurisprudence to achieve justice.

Under some interpretations of Islamic law, active in practice under Article 130, converting from Islam to another religion is deemed apostasy and considered an egregious crime. Those found guilty may be given three days to recant, or face death.

“Blasphemy”

The Penal Code includes punishments for verbal and physical assaults on a follower of any religion and punishment for insults or distortions directed towards Islam, including in cyberspace.⁶¹

An article in the Penal Code specifies what constitutes an insult to religion, stating, “A person who intentionally insults a religion or disrupts its rites or destroys its permitted places of worship shall be deemed as a perpetrator of the crime of insulting religions and shall be punished according to provisions of this chapter.” The Penal Code specifies that deliberate insults or distortions directed towards Islamic beliefs or laws carry a prison sentence of one to five years and specifies imprisonment for persons using a computer system, program, or data to insult Islam.⁶²

The Penal Code addresses “Crimes against Religions” and states that a person who physically attacks a follower of any religion shall receive a short-term prison sentence of not less than three months and a fine of between 3,000 and 12,000 Afghani (US\$60 to \$240); physical attacks on non-religious people are, by exclusion from this law, not technically as serious.

The Criminal Code makes no specific references to “blasphemy”; courts therefore rely on Islamic law to address this issue. Blasphemy – which can include anti-Islamic writings or speech – is a capital crime under some interpretations of Islamic law.⁶³ As

a result atheists and freethinkers are forced to hide their beliefs and the only way they can express their thoughts is anonymously through social media. For males over age 18 and females over age 16 of sound mind, an Islamic judge may impose a death sentence for blasphemy. Similar to apostates, those accused of blasphemy are given three days to recant or face death.

When accusations of blasphemy or defamation of religion are made people can be violently targeted.

Testimonies

“My curious mind has led me to exploring questions about science and Humanist philosophy. Becoming an atheist as a result of my curiosity, and on some occasions, openly discussing scientific issues and evolution even with my closest friends has put me in trouble. In Afghanistan nothing ends without a reference to God. That reference to god always stopped me from further exploring things openly with people. So I had to explore and talk to likeminded people on social media and Facebook, with, of course, a pseudonym, and openly challenge them and openly ask questions to satisfy my curiosity. The problems I will be facing if my atheistic views become apparent will be too grave, not only from authorities but also from my work colleagues and even my family. When my colleagues go to the mosque to pray I have to go with them, to avoid suspicion or I may be brutally murdered.”

— Khalid

“As an atheist I’m facing constant problems with family, friends, and even in dealing with people at the university campus and the community at large. Having any beliefs outside of Islam or that of which is not compatible with Islam and its teachings are considered an unforgivable crime. Such a view is prevalent throughout society, family, friends and even at the university, which is supposed to be a place to question and doubt; Not to mention that such beliefs are systematically reinforced by the constitution and the state’s laws. Thus, I am closet atheist, and my Secular Humanist views are limited to social media and to myself alone. The environment in Afghanistan is suffocating for freethinkers and Humanists. There are two ways available to me and others like me: Either stay quiet for your entire life which in turn is an imposed punishment for a social being like humans, or voice your concern for equality, freedom of thought and expression publicly. But to what cost?”

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Iraq

Last Updated **28 October 2020**

Iraq is surrounded by Saudi-Arabia, Jordan, Syria, Turkey, Iran and Kuwait, and has been at the centre and conflux of events not just in the region but worldwide for decades. Iraq is a member of the League of Arab States (LAS), as well as the Organization of Islamic Cooperation (OIC).

It is estimated that between 64% and 69% of the population are Shia Muslims and 29-34% are Sunni Muslims.¹ It is believed that around 250,000 Christians live in the country, fewer than 2,000 Baha'is.²

Constitution and government	Education and children's rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
State legislation is partly derived from religious law or by religious authorities	Religious or ideological instruction is mandatory in all or most state-funded schools with no secular or humanist alternative	<p>Systemic religious privilege results in significant social discrimination</p> <p>Government authorities push a socially conservative, religiously or ideologically inspired agenda, without regard to the rights of those with progressive views</p> <p>Prohibitive interreligious social control (including interreligious marriage bans)</p> <p>Religious control over family law or legislation on moral matters</p>	<p>It is illegal or unrecognised to identify as an atheist or as non-religious</p> <p>Expression of core humanist principles on democracy, freedom or human rights is severely restricted</p> <p>'Blasphemy' is outlawed or criticism of religion (including de facto 'blasphemy' laws) is restricted and punishable with a prison sentence</p>
		There is significant social marginalisation of the non-religious or stigma associated with expressing atheism, humanism or secularism	

Constitution and government

The Constitution establishes Islam as the official state religion and the foundation of legislation. Article 2 of the Constitution states that “[n]o law may be enacted that contradicts the established provisions of Islam” and that “[n]o law may be enacted that contradicts the principles of democracy.”³

Article 2 further states that the Constitution guarantees the “Islamic identity of the majority of the Iraqi people” and the rights to freedom of religion and practice “of all individuals such as Christians, Yazisis, and Mandeian Sabians”, with no mentions of other religions or non-believers. The law specifically prohibits the practice of the Baha’i Faith, as well as Wahhabism.

Freedom of religion is guaranteed in Article 41, which reads “Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices.” Individuals are “free in the practice of religious rites, including the Husseinian rituals” and “management of religious endowments (waqf), their affairs, and their religious institutions”, according to Article 43.

There are 17 religious groups recognized and registered with the government, including Islam, Syriac Orthodox, Seventh-day Adventist, Yezidi and Jewish. The registered groups, with the exception of the Yezidis, have their own personal status courts where marriage, divorce and inheritance issues are addressed.⁴ There are no regulations on how to obtain legal recognition for new groups, except for in Iraqi Kurdistan. Religious groups can obtain recognition if they have a minimum of 150 followers, document the sources of financial support and demonstrate that the group is not anti-Islam.⁵

The government is required by the Constitution to maintain the sanctity of holy shrines and religious sites and to guarantee the practice of rituals at the sites.⁶

National identity cards issued before 2016 stated religious affiliation. Individuals are still asked about their faith when applying for national identity cards and the chip in the card still contains the data, but their religious affiliation is no longer stated on the identity card. Religions that may be listed are Christianity, Sabean-Mandeian, Yezidi, Judaism and Islam.⁷

Nine out of 329 seats in the parliament are reserved for religious and ethnic minorities. There are for instance five seats reserved for Christian candidates and one each for Yezidi and Sabean-Mandeian.⁸

ISIS

In June 2014, Sunni Jihadists declared the “Islamic State of Iraq and Syria” (ISIS). The forerunner group arose in 1999 and participated in military conflict against US-led forces. The militants eventually carved out significant territory in Iraq, and in 2015 drew increasing numbers of followers internationally. They were known for violent executions, sexual slavery, and the persecution of religious minorities, as well as of “apostates” and “blasphemers”, those they accused of homosexuality, and anyone who offered any opposition to their hegemony. They were largely routed by December 2017, with areas under their influence returning to government control.⁹

Education and children’s rights

Islamic religious instruction is mandatory in public schools for Muslim students, at least in primary and secondary schools (with the exception of Iraqi Kurdistan). Non-Muslim students are technically not obliged to participate. There are continued reports of educational discrimination from religious minorities, and tight social stigmas around apostasy or conversion probably hamper free exercise of any opt-out. Students report being pressured into conforming to religious instruction. It is unclear how an attempt to opt-out by a specifically non-religious student would be handled. Christian religious education is offered in at least 255 public schools in areas with higher concentrations of Christians.¹⁰

Christians and Yezidis have reported on the discrimination in the education system, the lack of minority input on the curricula and the fact that not all schools had incorporated lessons of religious tolerance, as instructed by the Ministry of Education in 2015.¹¹

In Iraqi Kurdistan, the Ministry of Education funds religious instructions in schools for Muslims and Christian students.¹²

In 2019, thousands of children were prevented from enrolling in public schools because a family member was thought to be affiliated with ISIS.¹³

It is reported that the exploitation of children, for instance through forced begging and recruitment of child soldiers by some militias, is a recurrent problem.¹⁴

Family, community and society

Religious discrimination

Followers of the Baha'i faith have been persecuted for many years and the practice of the faith has been prohibited by law 105 of 1970 and prescribes 10 years' imprisonment for practicing the religion, but usually not enforced. The regional government in Kurdistan recognizes Baha'is and the federal prohibition is not enforced in the region. ¹⁵ Since 1970, Baha'is have been denied citizenship or other travel documents, such that it has not been possible for them to leave the country. ¹⁶

There are reports of harassment and physical abuse of Yazidis and Christians by members of the Popular Mobilization Forces, which is a state-sponsored organization, mostly consisting of Shia militias, formed to combat ISIS. ¹⁷

ISIS was a perpetrator of a genocide of Yazidis. The attacks against the Yazidi community entailed mass killings, forced conversion, kidnapping and the sexual enslavement of women and girls. At least 3,000 Yazidi women and children remain in captivity or are missing. ¹⁸

Several political leaders supported opening up for religious pluralism after ISIS was defeated. Sunnis living in areas liberated from ISIS have been able to practice their religions freely since. ¹⁹ However, Sunni Muslims report that they face discrimination in public sector employment as a result of "de-Baathification", which is described as a process originally intended to target loyalties of Saddam Hussein's regime which favored Sunnis. Sunnis say the de-Baathification provisions are used to render them ineligible for government jobs and government contracts. ²⁰

While the law does not prohibit conversion from Islam to another faith, there are no systems in place recognizing a change in one's belief. However, open conversions are reported to be rare as it can lead to ostracism. ²¹

Atheism is very rare in Iraq, but there are reports saying that an increasing number of people are non-believers. According to a poll from 2011, 67% professed a belief, 21% stated they probably believed, 4% said they probably didn't believe in God, and 7% stated they did not believe in a god. Atheism is not prohibited by law, but atheists have been prosecuted for blasphemy and other related charges. There is a low social tolerance of atheism which is why many atheists keep their views secret. ²²

While importing and distributing alcohol is legal for non-Muslims, it is reported that restaurants and liquor stores face harassment and attacks.²³ Muslims are banned by law to consume alcohol and are often denied permits allowing them to carry and sell alcohol.²⁴

Family law

Citizens have, according to the Constitution, the right to choose between a civil or religious court in matters of personal status, like marriage, divorce, inheritance and custody. Should a religious court be chosen, and one of the parties to the dispute is from an unrecognized faith, Islamic law will apply. If the same dispute were taken to a civil court, the court is required to consult the religious authority of a non-Muslim party for its opinion and use it as the basis of its judgement. In Iraqi Kurdistan, there are separate courts used for personal disputes between members of the same religion, while the civil status courts handle all other cases.²⁵

The law allows non-Muslim women identified as such in official documents to marry Muslim men, however, Muslim women cannot marry non-Muslims.²⁶

Discrimination against women and minorities

About one in four women between the ages 20 to 24 were married by the age of 18 and forced marriages are common. The laws regulating marriage and divorce favor men over women. Gender-based violence is a widespread problem, but rarely prosecuted.²⁷ According to Human Rights watch, a husband can legally punish his wife “within the limits prescribed by law or custom” and the law provides for mitigated sentences for various acts, including so-called “honor killings” or extramarital acts.²⁸

Rapists can avoid prosecution if they marry their victims, and spousal rape is not prohibited by law. Honor-killings are rarely punished and the law also opens up for reduced sentences for those convicted for honor-killings.²⁹

Non-Muslim women have reported that they feel pressured to wear a hijab during Ramadan and other Muslim holidays. Others are harassed for wearing western clothes or not adhering to strict Islamic norms.³⁰

While a prohibition on same-sex sexual relations is not codified, there are several vague provisions that can be used to target the LGBTQI+ individuals. According to Human Rights Watch, there are no cases documenting such prosecution.³¹

Freedom of expression, advocacy of humanist values

Blasphemy law

Iraq's Penal Code prohibits "insult" to religious rituals, symbols or sacred persons and objects.

Under Article 372 of the Penal Code:

"The following persons are punishable by a period of imprisonment not exceeding 3 years or by a fine not exceeding 300 dinars:

"Any person who attacks the creed of a religious minority or pours scorn on its religious practices.

"(5) Anyone who publicly insults a symbol or person who constitutes an object of sanctification, glorification, and respect to a religious community."³²

While there are blasphemy laws on the book, reports indicate the law is rarely enforced.³³

Freedom of expression

A report by Human Rights Watch states that, recently, there has been a spike in violations of the right to freedom of expression in Iraq, including the Kurdish region. The authorities have reportedly used vague laws to charge individuals expressing dislike or criticism of the authorities.³⁴

Press freedom

Freedom of media is guaranteed by the Iraqi Constitution, but it is restricted in practice by the threat of violence. The threats against journalists have increased since the anti-government protests began in October 2019. According to Reporters

Without Borders, the coverage of religious and political leaders seen as untouchable, can lead to prosecution or media bans for disrespecting “national or religious symbols.”³⁵

In April 2020, the news agency Reuters’ licence to work in Iraq was suspended after reporting on the numbers of COVID-19 cases in the country. The licence was reinstated again later that month.³⁶

2019 Government crackdown on protesters

In early October 2019, violent protests erupted in Iraq as citizens took to the streets demonstrating against corruption, high unemployment, dire public service and foreign interference.³⁷ The demonstrators, who reportedly set fire to public buildings and political party headquarters, were met by anti-riot police and security forces used excessive lethal force to end the protests.³⁸ Dozens of people were beaten and arrested, and at least 500 were killed and 19,000 injured during the violent crackdown, including members of the security forces.³⁹ The government also periodically shut down the internet in several regions and restricted the access to social media channels.⁴⁰ According to Human Rights Watch, the protest movement came to an end as a consequence of the outbreak of COVID-19 and the government’s measures to minimize the spread of the virus.⁴¹

Highlighted cases

In 2014, a 15-year old atheist **Ahmad Sherwan** was imprisoned in solitary confinement, tortured by electric shock, and threatened with murder, after a discussion in which he told his father that he no longer believed in God, after undertaking “extracurricular” reading. His father then reported him to the police who held and tortured him. He was released after 13 days.⁴²

In September 2014, ISIS terrorists publicly executed a leading female lawyer and human rights activist. **Samira Salih al-Nuaimi** lived in Mosul. She criticized ISIS online in Facebook posts and shortly afterwards she was seized from her home and tried by an ad hoc Sharia court for apostasy. She was finally sentenced to public execution.⁴³

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Nigeria

Last Updated 30 November 2020

In Nigeria, approximately half of the population are Muslims, about 40 percent are Christians, and roughly 10 percent are of traditional indigenous religions or no religion. While the Constitution guarantees religious freedom, the state endorses numerous anti-secular and theocratic policies. The government and non-state militia such as Boko Haram constantly violate the rights to freedom of thought and expression.

Constitution and government

Education and children's rights

Family, community, society, religious courts and tribunals

Freedom of expression advocacy of humanist values

'Apostasy' or conversion from a specific religion is outlawed and punishable by death

'Blasphemy' or criticism of religion is outlawed and punishable by death

<p>The non-religious are barred from some government offices (including posts reserved for particular religions or sects)</p>	<p>Religious or ideological instruction is mandatory in all or most state-funded schools with no secular or humanist alternative</p>	<p>The non-religious are persecuted socially or there are prohibitive social taboos against atheism, humanism or secularism</p>	<p>Expression of core humanist principles on democracy, freedom or human rights is severely restricted</p>
<p>State legislation is partly derived from religious law or by religious authorities</p>		<p>Systemic religious privilege results in significant social discrimination</p> <p>Government authorities push a socially conservative, religiously or ideologically inspired agenda, without regard to the rights of those with progressive views</p> <p>Religious control over family law or legislation on moral matters It is made difficult to register or operate an explicitly Humanist, atheist, secularist or other non-religious NGO or other human rights organization</p>	
<p>Preferential treatment is given to a religion or religion in general</p>		<p>Some religious courts rule in civil or family matters on a coercive or discriminatory basis</p> <p>Discriminatory prominence is given to religious bodies, traditions or leaders</p>	
			<p>Some concerns about political or media freedoms, not specific to the non-religious</p>

Constitution and government

The Nigerian Constitution¹ protects freedom of religion and allows religious conversion. Section 10 of the Constitution states, “[t]he Government of the Federation of a State shall not adopt any religion as State Religion.”

This provision has however occasionally been overlooked by national leaders, with Rivers State Governor Nyesom Wike pronouncing Rivers a Christian state during a speech in June 2019.²

However, Sections 275–279 of the Constitution give constituent states the power to establish their own Sharia courts on civil matters. Abiding by Sharia law is required for Muslims in some states but optional in others and enforcement differs by state. Rulings and procedures are sometimes difficult to find. Christians are not obliged to abide by Sharia law in any of the 12 states.

Proselytizing in public is illegal in some states, on the grounds that it deters ethnic conflict. Religious groups are required to have permits to build places of worship and to hold public gatherings. Christian and Islamic groups are required to register with the Corporate Affairs Commission (CAC) to do so. Religious discrimination is prohibited by law, but there are significant inter-religious social tensions.

In several instances, politicians have been reported to refer to religion when justifying their stance on legislative proposals and in other political contexts: in 2017, the MP Gudaji Kazaure declared himself to be against family planning as the latter is against Islamic doctrine, and cited Prophet Muhammad’s words “Marry and have children so that I can be proud of you on the day of judgement”. In 2019, a video began circulating on social media showing Senator Dino Melaye campaigning in his home state and reciting the first chapter of the Quran to a roaring Muslim campaign mob.³

Education and children’s rights

Under Article 38 of the Constitution of Nigeria, it is a requirement for all students in the public education system to receive instruction either in Christianity or Islam, though the Constitution states that institutions cannot subject students to instruction in a religion other than that inherited from their family.⁴ In practice, Christian education classes are not offered in many Northern states and Muslim education classes are not always provided in Southern states.

The Constitution states:

“Section 38:2 No person attending any place of education shall be required to receive religious instruction or to take part in, or attend any religious ceremony or observance if such instruction, ceremony or observance relates to a religion not approved by his parent or guardian.”

“Section 38:3 No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.”

On 8 September 2018, the 52nd anniversary of Literacy Day as declared by UNESCO, the Nigerian Minister of Education Adamu Adamu declared that Nigeria has about 60 million illiterate youth and adults (about one third of the entire Nigerian population), 60% of whom are female. He also underlined that 11 million children are out of school, and he called for urgent attention to this matter as the country strives for the attainment of the SDGs by 2030.⁵

In the same year, the Minister also brought forward a reform to the school curriculum, introducing an umbrella subject called ‘Religion and National Values Curriculum’, which includes five subjects, taught separately: Civic Education, Social Studies, Christian Religious Knowledge, Islamic Studies and Security Education. The reform also made Civic Education a compulsory subject.⁶

In 2019, a number of Islamic rehabilitation schools (*Almajiris*) across northern Nigeria were discovered to be abusing hundreds of children. The Nigerian police freed more than 1,000 people from these centres in October 2019 alone, but thousands of other children could be at risk as some 10 million children are estimated to attend *Almajiris* schools across the country. President Buhari has ordered the police to search for these abusive centres and disband them.⁷

Family, community and society

Nigeria is a religiously pluralistic country in which an individual’s ethnicity has a bearing on religious demographics. The Hausa-Fulani ethnic group, which is most populous in northern Nigeria, are predominantly Muslim while the Igbo, a major

ethnic group in the south, is predominantly Christian. Meanwhile no single religion is in the majority throughout the country. Muslims, who are in the majority in the north are in the minority in Southern Nigeria. Whilst Christians, who are in the majority in southern Nigeria, are in the minority in the north. Nigeria has a volatile ethno-religious mix and ethno-religious violence often erupts.⁸

Islam is often regarded, and is in effect, the *de facto* state religion of numerous northern states due to: the introduction of criminal law aspects of Sharia, the continued state use of resources to fund mosque construction, the education of *Kadis* (Muslim judges), pilgrimages to Mecca (Hajj), and religious instruction in schools. Some states have also used government funds to pay for Christian pilgrimages to Jerusalem. In general, states with a Christian or Muslim majority favour and give privileges to the majority faith to the exclusion of religious or belief minorities.

Sectarian divide

Muslims in some predominantly Christian states have complained about being denied permission to build mosques in predominantly Christian southern states. Christians in the predominantly Muslim northern states have claimed that local government officials used zoning laws to delay or prevent the establishment of new churches. Some have made claims that the enforcement of zoning laws was selective. Government officials have been commonly reported to have discriminated against people whose religious beliefs are different from their own, notably in hiring or contract awarding. Religious and ethnic discrimination also exists in private businesses' hiring practices and purchasing patterns.

The deep entanglement of religion and state perpetuates parallel legal systems for different religious and ethnic groups.

Boko Haram

The country has been afflicted in recent years by the terrorism of Boko Haram, with abductions, massacres and bomb blasts in Abuja. Boko Haram has deliberately attacked Christians and moderate Muslims during its armed campaign, along with their respective houses of worship.⁹

The abduction of around 200 school girls early in 2014 by Boko Haram prompted the sharing of the #BringBackOurGirls hashtag around the world, but most abductees from Chibok and other towns remain lost. The government and armed forces were accused of hesitation, inaction and incompetence in addressing the terrorist threat; and deaths and kidnappings number in the thousands. Sectarian tension was on the rise in 2014 and attacks continued in 2015. Boko Haram caused more deaths in terror attacks in 2014 than ISIS. A more concerted military response in 2015 and 2016 appears to have diminished Boko Haram's strength.

In spring 2018, Boko Haram took about one hundred more girls from a secondary school in the town of Dapchi, just south of the Sahara, in the state of Yobe. The convoy took them to the edges of lake Chad, where the splinter group loyal to ISIS in Syria-Iraq resides. After more than a month, the terrorist group eventually returned the girls, in broad daylight, to their parents, declaring, as one parent reported: "We have now returned your children to you but make sure you don't enrol them in western education again because if you do we will come back and take them away". Some youths, soon after the sermon in the middle of the town, joined the convoy and swore fealty afterwards, going back to their base, where they keep territory and receive IS runaways from the Middle East and Libya.¹⁰

LGBTI+ rights

Same-sex relationships were criminalized and LGBTI+ advocacy groups were banned in 2014, when former president Goodluck Jonathan signed the Same-Sex Marriage (Prohibition) Act.¹¹ The law made same-sex relationships punishable by up to 14 years in prison. In October 2020, a judge in a Nigerian court threw out a case against 47 men charged with public displays of affection with members of the same sex after the prosecution failed to attend or present evidence.¹² The case has widely been seen as a test case for the Same-Sex Marriage (Prohibition) Act, as the men were the first to face charges under the act.¹³

According to Freedom House, LGBTQ+ people are deterred from openly running for office or working to advance their political interests.¹⁴

Women's rights

According to Amnesty International, "[d]espite the passage of the Violence Against Persons Prohibition (VAPP) Act, violence against women remains prevalent in

Nigeria. The VAPP Act, a law which criminalizes acts that are harmful to and discriminatory against women, is applicable in Abuja and has been domesticated in less than 10 states across Nigeria.”¹⁵

Freedom of expression, advocacy of humanist values

Freedom of expression is guaranteed under the Constitution, however, this right is restricted in practice by both state and non-state actors. A series of laws prohibiting sedition, criminal defamation, and publication of false news are regularly used by the government to crack down on dissent. Further northern states that have adopted the Sharia court system apply severe penalties for alleged press offences.¹⁶

In November 2019, Nigeria’s National Assembly considered two draft legislations: Protection from Internet Falsehood and Manipulation and other Related Offences Bill 2019¹⁷ and the Bill to establish a National Commission for the Prohibition of Hate Speech.¹⁸ If passed into law, the bills will give authorities arbitrary powers to shut down the internet, make criticizing the government punishable with penalties of up to three years in prison, a life sentence and a maximum of death penalty.¹⁹ Following public outcry, the decision to pass the bills was suspended, but the Bills themselves had not been formally withdrawn as of July 2020.²⁰

Media freedom

According to Reporters Without Borders (RSF), Nigeria is now one of West Africa’s most dangerous and difficult countries for journalists, who are often spied on, attacked, arbitrarily arrested or even killed. Two journalists were shot dead while covering Islamic Movement in Nigeria – a banned Shiite Muslim organization – protests; one in July 2019 and the other in January 2020 – without any proper investigation with the aim of identifying those responsible.²¹

Journalists often face harassment, intimidation and arrest especially when they cover corruption scandals, human rights violations, separatist and communal violence, or other politically sensitive topics.²² According to RSF, “[j]ournalists are often denied access to information by government officials, police and sometimes the public itself. The all-powerful regional governors are often their most determined persecutors and act with complete impunity.”²³ Two pieces of legislation

commonly used against journalists by the authorities are the Cybercrime Act of 2015²⁴ and Terrorism (Prevention) (Amendment) Act of 2013.²⁵

Blasphemy

Under the Customary system, applicable nationwide, 'blasphemy' is prohibited under section 204 of the Criminal Code.²⁶ Section 204, "Insult to religion", states:

"Any person who does an act which any class of persons consider as a public insult on their religion, with the intention that they should consider the act such an insult, and any person who does an unlawful act with the knowledge that any class of persons will consider it such an insult, is guilty of a misdemeanour, and is liable to imprisonment for two years."

States subject to Shariah courts can and do implement severe punishments for crimes such as 'blasphemy', including execution. In August 2020, **Yahaya Sharif-Aminu**, described by the BBC as a little-known Islamic gospel musician was sentenced to death by hanging by an upper Shariah court in Kano state.²⁷ Sharif-Aminu was arrested in March 2020 after allegedly saying that Sheikh Ibrahim Niasse, the Senegalese founder of the Islamic Tijjaniya sect, which has a large following across West Africa, "was bigger than Prophet Muhammad". On 4 March 2020, protestors reportedly burned down Sharif-Aminu's home and demanded that the Islamic police, *Hisbah*, take action against him.²⁸ It is understood that Sharif-Aminu has filed an appeal against his conviction and sentence.²⁹ The same Shariah court in Kano state **sentenced** 13-year-old **Umar Farouq** in August 2020 to 10 years in prison with menial labor for 'blasphemy'.³⁰ Farouq was found guilty of offending God, as he had used "foul language" against God during an argument with a friend.³¹ Farouq has appealed the judgment.

In addition to handing down executions, predominantly Muslim states have frequently seen riots, violence and murder after 'blasphemy' accusations, sometimes against individual Muslims accused, but with potential for wider violence when the accused is Christian.

Highlighted cases

Nigerian human rights activist and President of the Humanist Association of Nigeria **Mubarak Bala** was arrested by Kano State Police Command on 28 April 2020

following a petition filed by a law firm alleging that Bala had insulted the Prophet Muhammad in his Facebook posts.³² Bala was held without access to his lawyers until October 2020.³³ He remains held without charge in Kano state; successive court hearings have been subjected to adjournments. Bala has been the victim of death threats and harassment since he renounced Islam in 2014.³⁴ In June that year, he was assessed as needing psychiatric help because he was “an atheist” and was held against his will at a psychiatric ward in Kano, northern Nigeria. His father, formerly a senior member of the Islamic religious authorities, had orchestrated Mubarak’s detention after Mubarak had refused to keep quiet about his atheistic views on religion. Bala was freed after nearly three weeks due to a strike at the hospital.

The **Humanist Association of Nigeria** was denied registration as an organization for many years. Antagonists linked the group to the promotion of gay rights, presuming this to stand against its merits (and in reality it may well contribute to authorities’ refusal to progress a registration).³⁵ In 2017, the Humanist Association of Nigeria was eventually granted formal recognition after 17 years of campaigning, together with other humanist/atheist groups, including the Northern Nigeria Humanist Movement, the Atheist Society of Nigeria and Lagos Humanists.³⁶

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Somalia

Last Updated **28 August 2020**

Somalia has lacked an effective central government for decades. The ousting of President Siad Barre in 1991 precipitated a decades-long civil war between rival factions and the disintegration of central authority, which the terrorist group Al-Shabaab was able to make significant territorial gains. Al-Shabaab imposes a strict version of Sharia law in areas under its control, including the death penalty for apostasy, blasphemy and adultery.

The former British Somaliland declared independence in 1991, and the region of Northern Puntland similarly broke away in 1998. Only in 2012 did efforts to restore central authority make significant progress, with the formation of the first parliament in more than 20 years, and the holding of the first presidential election since 1967.¹

99.7% of the population of Somalia is Sunni Muslim, with the remaining less-than-1% comprising a small Christian community of approximately 1,000 individuals, a small Sufi Muslim community, and an unknown number of Shia Muslims, Hindus, Buddhists, Jews, humanists, atheists and other non-religious individuals.²

Constitution and government	Education and children's rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
<p>State legislation is largely or entirely derived from religious law or by religious authorities</p> <p>The non-religious are barred from holding government office</p>			<p>'Apostasy' or conversion from a specific religion is outlawed and punishable by death</p> <p>'Blasphemy' or criticism of religion is outlawed and punishable by death</p> <p>It is illegal or unrecognised to identify as an atheist or as non-religious</p>
<p>The non-religious are barred from some government offices (including posts reserved for particular religions or sects)</p>	<p>Religious or ideological instruction is mandatory in all or most state-funded schools with no secular or humanist alternative</p>	<p>Systemic religious privilege results in significant social discrimination</p> <p>Prohibitive interreligious social control (including interreligious marriage bans)</p> <p>Religious control over family law or legislation on moral matters</p> <p>It is made difficult to register or operate an explicitly Humanist, atheist, secularist or other non-religious NGO or other human rights organization</p>	<p>Expression of core humanist principles on democracy, freedom or human rights is severely restricted</p> <p>'Blasphemy' is outlawed or criticism of religion (including de facto 'blasphemy' laws) is restricted and punishable with a prison sentence</p>

Constitution and government

In August 2012, in an effort to establish greater centralized authority, the new government of Somalia adopted the Provisional Constitution. The Provisional Constitution claims to provide for some freedom of religion, as well as some freedom of expression. However, Article 2 of the same Constitution undercuts this claim:

(1) Islam is the religion of the State.

(2) No religion other than Islam can be propagated in the country.

(3) No law can be enacted that is not compliant with the general principles and objectives of Shari'ah.³

The provisional federal Constitution requires that the president be Muslim (Article 88(a)).

The constitutions of Somaliland and Puntland State (which are technically autonomous states but are not internationally recognised) similarly declare Islam as the state religion, bar the propagation of any religion other than Islam, and require all laws to comply with the general principles of Shari'ah law.⁴

The Somaliland Constitution requires that candidates for president, vice president, and the house of representatives be Muslim. The Puntland state Constitution requires that its president be Muslim.

The judiciary in most regions relies on Xeer (traditional and customary law), Islamic law, and the 1963 penal code. Legal frameworks vary considerably because each community individually regulates and enforces religious expression, often inconsistently.

Al-Shabaab

The terrorist group Al-Shabaab remains a major impediment to peace, attacking the Somali government and all "enemies of Islam" in recent years, harassing and killing persons suspected of converting from Islam, and maiming and killing those who fail to adhere to its edicts under territory it controls. Having pledged allegiance to Al-Qaeda, in 2015 some senior figures now appear to have aligned with ISIS. The

group's mission is to create a fundamentalist Islamic state in the Horn of Africa that would encompass Somalia, Djibouti, Kenya, and Ethiopia.⁵

While the group has suffered considerable loss of territory, and seen numerous high-level defections, it remains active and in control in some rural areas, having established effective 'local government' including in some cases tax systems, infrastructure projects, and services not provided by the legitimate government.⁶ Al-Shabaab carried out a record number of terrorist attacks in 2019, mostly against civilians, non-Muslims, members of the government and the African Union Mission to Somalia (AMISOM). The Mayor of Mogadishu was killed in one such attack in August 2019.⁷

Education and children's rights

Article 30(8) of the provisional constitution states that "The teaching of Islam shall be compulsory for pupils in both public and private schools. Schools owned by non-Muslims shall be exempted from these measures."⁸

In October 2019, it was announced that a new standard curriculum for primary and secondary schools would be adopted for the first time since the civil war began in 1991. The Minister of Higher Education And Culture, Abdirahman Mohamed Abdulle, highlighted that religious education would be a particularly important aspect of the state curriculum in order to counter al-Shabaab's attempts to impose a strict version of Islamic law. According to Abdulle, Muslim clerics helped to train teachers in Islamic ethics and create a syllabus that "will produce students who are sound, who are free from terror ideology, moderate students who have Islamic knowledge as well as other subjects".⁹ Al-Shabaab is known to employ an aggressive child recruitment strategy, forcing communities in rural areas to hand over their children for indoctrination or to become frontline fighters.¹⁰

Somalia has one of the world's lowest enrolment rates for school-aged children, with only four out of ten children in school.¹¹

Family, community and society

Women's rights and harmful religious, cultural and traditional practices

Women and girls are disproportionately affected by poverty and conflict in Somalia, which has one of the highest rates of maternal mortality and sexual and gender-based violence in the world. According to the Social Institutions and Gender Index:

“Whilst most incidents of violence against women go unreported, there is a culture of impunity surrounding sexual and domestic violence in Somalia. Customary approaches to dealing with violence against women typically involve making “arrangements” between the clans of the victim and the rapist.”¹²

Widespread adherence to customary laws and traditions routinely undermines the rights of women and girls. For example, in February 2020, it was reported that a man found guilty of the rape and murder of a 12 year old girl was freed after he agreed to pay the family 75 camels.¹³

Female Genital Mutilation (FGM) and child marriage is practiced throughout Somalia, with both practices experiencing an increase during COVID-19 and the resulting closure of schools.¹⁴ Politicians have been reluctant to challenge the cultural beliefs that underpin these harmful practices, and have at times helped to entrench existing norms. In August 2020, a bill was proposed in parliament that would legalise child marriage from the age of puberty.¹⁵

Freedom of expression, advocacy of humanist values

The new constitutions in Puntland, Somalia and Somaliland call for freedoms of speech and the press, but these rights are not respected in practice. Somalia remains one of the most dangerous countries in the world for journalists, with dozens of journalists murdered every year.

Apostasy

The Provisional Federal Constitution prohibits (under Articles 2 and 17) the “propagation” of any religion other than Islam.

While the provisional federal constitution does not explicitly prohibit apostasy, it does state that Shari'ah law takes precedence over federal law (and Shari'ah law forbids conversion from Islam).

Both Puntland State and Somaliland have their own constitutions that also claim to provide some protection for religious freedom, though both documents prohibit apostasy, conversion from Islam, and propagation of religions other than Islam.

The Puntland Constitution, adopted by a constituent assembly in 2012, states that no one can be forced to adhere to a faith different from one's own beliefs. However it also prohibits apostasy for Muslims and propagation of any religion other than Islam. The Puntland authorities interpret this section of the Puntland Constitution to mean that conversion from Islam to other religions is prohibited.

The Somaliland Constitution protects the right of freedom of belief. However, it states that Islamic law does not accept Muslim apostasy, prohibits preaching in a mosque on "matters that would divide the nation," and prohibits the promotion of any religion other than Islam. Somaliland authorities interpret this portion of the Somaliland Constitution to mean that conversion from Islam to other religions is prohibited.

Al-Shabaab adopts its own interpretation of Shari'ah law and routinely executes both people of non-Muslim faiths and converts from Islam.¹⁶

Blasphemy

The penal code developed in 1963 applies to all regions of the country. Article 313 criminalizes blasphemy and imposes a punishment of 2 years in prison, stating:

"(1) Whoever publicly brings the religion of Islam into contempt shall be punished with imprisonment up to two years

(2) Whoever publicly insults the religion of Islam by bringing into contempt persons professing it or places or objects dedicated to worship shall be liable to the same punishment"

Separately, in the section in the Penal Code concerning 'morals and decency', Article 559 imposes a fine for blasphemy, stating:

“(1) Whoever publicly blasphemes, with invectives or insulting words, the Deity or the symbols of the person venerated in the religion of the State shall be punished with fine [99. PC) from Sh. So. 100 to 3,000”¹⁷

In areas controlled by al-Shabaab there remains a high risk that criticism of Islam, or the militant group, let alone any statement or act perceived as 'blasphemous', could result in an unlawful execution under the auspices of al-Shabaab.

Highlighted Cases

In 2015 a man was killed in public for “insulting the prophet Muhammed”, witnesses told the BBC. He was shot by a firing squad in the southern town of Jamame, Lower Juba region, following a Sharia trial conducted under the auspices of al-Shabaab.¹⁸

In February 2019, Professor Mahmoud Jama Ahmed published a post on Facebook which questioned whether praying to God for water was a useful strategy to overcome the drought that affects Somalia every year. This post went viral and was widely interpreted as an act of “blasphemy”. He received multiple death threats and was arrested by police in March 2019. Before being presented to the court, he suffered months of illegal detention, physical harassment, searches and various forms of intimidation. On 30 April 2019, Ahmed was sentenced to two and half years in jail for “blasphemy”. He received a presidential pardon after ten months in jail, but only on the condition that he agreed not to practice any clerical activity and was also suspended from university work for five years. After his release, and despite having refrained from any public activity, Ahmed continues to receive threats on his life. On 28 February, a prominent local Imam, Adam Sunnah, publicly called for his death during Friday prayers. In a recording heard by Humanists International, Sunnah says that no repentance should be accepted from Ahmed because he is an apostate and apostates must be killed even if they repent.¹⁹

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Syria

Last Updated 25 September 2020

The Syrian Arab Republic is a multi-ethnic nation (predominantly Arabs, Kurds, Circassians, Chechens, and Turkomans), which was around 75% Sunni, 10% Shia, and the remainder mainly a mix of other Muslim, Christian and other religious groups.¹ Many of these groups have been disrupted and displaced in conflict in recent years.

The country is in the throes of a civil war, which is in its 10th year. The civil war began as a secular and nonviolent pro-democracy protest against the government. President Bashar al-Assad responded to the protests with extreme violence, which caused members of the military to defect and form the Free Syria Army. Assad's government committed numerous atrocities against Syrian civilians during the civil war. Amid reports of massacres, indiscriminate violence and the use of chemical weapons in populated areas, Assad has maintained the assertion that his government is engaged in fighting terrorists rather than peaceful civilian protesters². Assadist policy was designed to provoke sectarian breakdown in Syria. For months, Assad pursued an "undeclared non-aggression pact" with Islamic State of Iraq and Syria ("ISIS"), with the aim of scaring minorities and secularists into loyalty and convincing foreign powers that his dictatorship was an essential solution to problems of extremism it had itself manufactured³. This strategy proved to be an effective one.

According to the UNHCR, around 5.6 million Syrians have fled the country since 2011, and 6.6 million have been internally displaced⁴. The government's war crimes, including unlawful killings, persistent attacks on civilians and civilian infrastructure, enforced disappearances, torture, and arbitrary detention, all disproportionately punished civilians, the majority of whom are Sunni Muslims⁵. In the wake of the mass displacement of large numbers of people, the Assad regime is attempting to forcefully engineer demographic changes to cement his hold on power. Several

decrees passed by the government prevent displaced residents and refugees from returning to their homes, including by handing their properties over to regime loyalists⁶.

To date, Assad’s regime has managed to recapture most of Syria’s largest cities, although significant territory remains in the hands of opposition fighters as well as an alliance of Kurdish and Arab militias, the Syrian Democratic Forces (now under attack from Turkey).⁷

Even the limited freedoms granted by its Constitution are therefore being violated on a massive scale.

Constitution and government	Education and children’s rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
State legislation is largely or entirely derived from religious law or by religious authorities			Expression of core Humanist principles on democracy, freedom and human rights is brutally repressed
The non-religious are barred from some government offices (including posts reserved for particular religions or sects)	Religious or ideological instruction is mandatory in all or most state-funded schools with no secular or humanist alternative	Systemic religious privilege results in significant social discrimination Prohibitive interreligious social control (including interreligious marriage bans) Religious control over family law or legislation on moral matters	

Constitution and government

Discrimination based on religion is prohibited by law. The state is often referred to, and described by the Assad regime, as “secular”, and there is no official state religion. However, in fact the 2012 Constitution requires that the president be Muslim and stipulates that Islamic jurisprudence is a principal source of legislation.

Syria has a dual legal system which includes both secular and religious courts. Civil and criminal cases are heard in secular courts, while the Sharia courts handle personal, family, and religious matters.⁸

Prior to the civil war, the Syrian Constitution, law and other policies provided some limited freedom of religion or belief, but very little freedom of expression, especially with regard to the media.

According to law, membership in certain religious organizations is illegal and punishable to different degrees. For example, Salafist (Sunni fundamentalist) organizations are illegal and supporting or affiliating with the Syrian Muslim Brotherhood has been punishable by death since the 1980s.

The government officially recognizes Christianity, Judaism and Islam. All religious groups are required to register and the registration process can be lengthy. There is no designation of religion on passports or national identity cards, except for Jews, who are the only religious group whose passports and identity cards note their religion.⁹ Apostasy is not directly forbidden, however, the authorities restrict proselytizing and prohibit conversion of Muslims from Islam. Others may convert to Islam. If a Christian converts to Islam, the presiding Muslim cleric has to inform the convert's diocese. Societal pressure further makes conversion, particularly from Islam to Christianity, relatively rare and forces many converts to flee outside of the country.

Education and children's rights

All state schools are officially government-run and non-sectarian, although in practice the Christian and Druze communities operate some schools. There is mandatory religious instruction in public schools for all religious groups, with government-approved teachers and curricula. Religious instruction is provided for Islam and Christianity only, and courses are divided into separate classes for Muslim and Christian students. Other religious minority groups can choose between either or attend private schools. Although Arabic is the official school language, the authorities allow in some schools courses in Armenian, Hebrew, Syriac (Aramaic), and Chaldean.

In ISIS-controlled territory the school curriculum was altered. Several basic academic subjects were banned, for example chemistry, and some schools were used to train minor boys for “jihad”. The schools teach according to ISIS’s ideological priorities.

Since 2011 several million children have been forced to leave school.

Family, community and society

For issues of personal status, or family law, the government requires citizens to be affiliated nominally with Christianity, Judaism, or Islam. The government allows these recognized groups to use their own religious laws in matters of family law.

Consequently, members of religious groups are subject to their respective religious laws concerning marriage and divorce. Religious affiliation is required on birth certificates and legal documentation when marrying. In the case of interreligious disputes, Islamic law takes precedence.

Gender equality

While the Syrian regime is nominally secular, its approach to women’s rights is still deeply influenced by traditional religious forces. The Personal Status Law governs matters such as marriage, divorce, child custody, and inheritance¹⁰.

Sharia is the basis of inheritance law for all citizens, except Christians. Women inherit usually half of that of male heirs and a Christian woman married to a Muslim man can not inherit from her deceased husband.

The religious family law also discriminates against women. Under the law, a Muslim woman cannot marry a Christian man, but a Muslim man can marry a Christian or Jewish woman. Women need the consent of their male guardian in order to marry. Many marriages are arranged and women can face societal or financial pressure to agree. Adultery is a criminal offence for both sexes, but the punishment is twice as high for women as for men. The law allows men to marry up to four wives without the consent of the first wife. Men can repudiate their wives, women can obtain a divorce with the Islamic principle of “khula”, if they agree to renounce their dowry. Domestic violence and spousal rape are not criminalized. In addition, raped women may face violence of their own family for shaming the family’s honour. Abortion is only legal, if the pregnant woman’s life is in danger.¹¹

A UN Commission of Inquiry on Syria released a report in 2018 that found that thousands of women and girls had been subjected to sexual and gender-based violence by warring parties in Syria. The report notes that:

“beginning in 2011, rapes and other acts of sexual violence carried out by Government forces and associated militias during ground operations, at checkpoints, and in detention formed part of a widespread and systematic attack directed against a civilian population, and amount to crimes against humanity.”¹²

Women and girls situated in the parts of Syria under the control of ISIS had their fundamental rights routinely denied in a brutal fashion. During the height of its Caliphate, some of ISIS’ practices included the recurrent stoning of women and girls to death on charges of adultery, executing sexual minorities by throwing them off buildings, publicly lashing those who violated its dress code, and forced marriage of Sunni girls and women to ISIS fighters.¹³

Freedom of expression, advocacy of humanist values

Media freedom

Since the Ba-ath Party (led by President Bashar al-Assad’s father, Hafez al-Assad) seized power in a coup in the 1960s, freedom of expression in Syria has been severely restricted. Since 2013, it has scored among the 10 worst countries in the world for freedom of expression violations against the media, according to Reporters Without Borders’ ranking index¹⁴.

Prior to the revolution, Syria only had three government-controlled national newspapers and the state closely controlled all radio stations and television, either directly or indirectly¹⁵. It made use of its extensive control over media outlets to dictate the narrative over the conflict, deny its involvement in war crimes and disseminate propaganda¹⁶.

A Press Law adopted in 2001 (Decree No. 50/2001) tightened the governments control over the media by criminalizing the publication of news on certain topics, including reports about “national security” and “national unity”. Article 51a broadly

prohibits the publication of “falsehoods” and “fabricated reports”, while Article 56d states that licences of publications that “call for changing the state constitution through unconstitutional means” will be revoked¹⁷.

Syrian authorities regularly arrest and detain human rights activists, journalists, and bloggers, especially those advocating for democratic political reform. Many are accused of “defaming the state” under Article 287 of the criminal code or of “publishing false information” and “undermining national sentiment” under Articles 283 and 286¹⁸. During the first five years of the civil war, journalists and citizen media actors became targets of the regime due to their role in informing the world of the crimes committed by the government. A report by the Syrian Network for Human Rights (SNHR) found that at least 707 citizen journalists have been killed since March 2011 to date, with the main perpetrator being the forces of the Syrian regime¹⁹.

While the government routinely depicts itself in its own propaganda as a “protector of minorities”, such as Christians; its actions on the grounds are anything but. Local NGOs have documented 124 attacks on Christian places of worship from 2011, 60% of which were carried out by government forces.²⁰ The government also promotes anti-Semitic rhetoric in state-funded TV and Radio programming.

Testimonies

“I was an atheist before the Syrian revolution. It did not affect my life in a direct way, although I was criticized by anyone who knew about my thoughts, particularly some friends and my not-close-relatives. But after the revolution the situation worsened: the Syrian militants now kill or kidnap every atheist they find. I am glad to live abroad now.”

— Leen

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