

# Somalia

Somalia has lacked an effective central government for decades. The resulting anarchy enabled extremist Islamist groups to impose harsh forms of Sharia that included death for apostasy, blasphemy and other expressions of the freedom of belief and expression.

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

Legend

## Constitution and government

In August 2012, in an effort to established 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.

- <[unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME=](http://unpos.unmissions.org/LinkClick.aspx?fileticket=RkJTOSpoMME=)>

The provisional federal constitution requires that the president be Muslim. 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 provisional federal constitution and Puntland state constitution make no such requirement for ministerial, parliamentary, or prime ministerial positions.

## **Islamic law**

The provisional federal constitution describes the Federal Republic of Somalia as a Muslim country, and that laws must not conflict with Islamic Shariah law. (The supremacy of the Constitution is second to, or comes "after", the supremacy of Shariah law, according to Article 4 of the constitution).

In addition, the regional Somaliland constitution declares that its laws must derive from and not contradict Islam. The Puntland constitution stipulates that all laws be based on Islamic law.

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 has suffered considerable loss of territory, and seen numerous high-level defections.

However 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.

<[washingtonpost.com/news/monkey-cage/wp/2017/07/06/this-is-why-al-shabaab-wont-be-going-away-any-time-soon/](http://washingtonpost.com/news/monkey-cage/wp/2017/07/06/this-is-why-al-shabaab-wont-be-going-away-any-time-soon/)>

The internationally-backed government which took power in 2012 has finally returned a degree of stability and constitutional consistency, but numerous human rights issues and inter-social rivalry remain potent forces, and Islamist tendencies run deep. Al-Shabaab terror has lashed out beyond Somalia, with attacks in 2014 in Djibouti and Kenya, as well as renewed attacks in Mogadishu. In November 2014, in less dramatic events but perhaps representing signs of progress, the government re-launched Somalia's first postal service after more than two decades without one, and the first ever automatic cash machine was installed in a hotel in Mogadishu.

## Education and children's rights

*"The federal Ministry of Education has the mandate to regulate religious instruction throughout the country. Federal and regional authorities require Islamic instruction in all schools, public or private, except those operated by non-Muslims. Private schools have more leeway to determine their curriculum. Non-Muslim students attending public schools may request an exemption from Islamic instruction, but according to federal and regional authorities, there have been no such requests."*

[state.gov/documents/organization/281030.pdf](http://state.gov/documents/organization/281030.pdf)

## 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 Somali constitution states that all citizens, regardless of religion, are afforded equal rights and duties before the law and that each person is free to practice his or her religion, but at the same time the constitution prohibits (twice! – under Articles 2 and 17) the “propagation” of any religion other than Islam.

The provisional federal constitution does not explicitly prohibit apostasy, but does state that Shari’ah law comes before federal law.

Both Puntland State and Somaliland, a self-declared independent republic, 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.

Areas controlled by Al-Shabaab and other militant Islamists sometimes operate Sharia courts outside of federal control. In 2009 a politician was executed for ‘apostasy’ by Islamist militants after a so-called Shariah court hearing.

[news.bbc.co.uk/1/hi/7833621.stm](http://news.bbc.co.uk/1/hi/7833621.stm)

### Defamation of Islam

The penal code developed in 1963 applies to all regions of the country. It does not prohibit

conversion from Islam, but it does criminalize blasphemy and defamation of Islam, which carry fines of up to two years in prison.

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.

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.

<[bbc.co.uk/news/world-africa-32452284](http://bbc.co.uk/news/world-africa-32452284)>