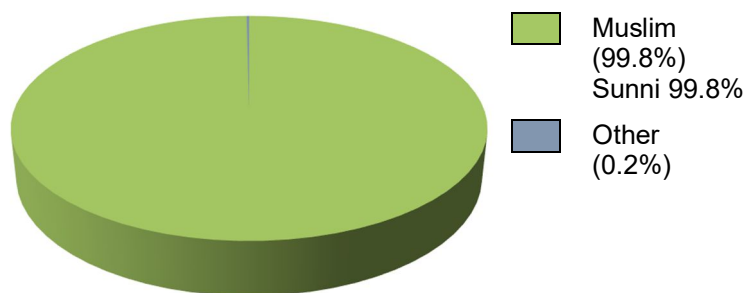


SOMALIA



Area: 637,657 km ²	Population¹: 10.6 million	Political system: Democracy ²	Major Language(s): Somali, Arabic, Italian, English ³
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Legal framework on freedom of religion and its current application

According to the Office of the United Nations High Commissioner for Refugees (UNHCR), more than 50 percent of all refugees worldwide originate from just three countries: Syria, Afghanistan and Somalia.⁴ According to latest reports, there are one million people from Somalia who have fled their homes in search of sanctuary. Many of these have gone to nearby Kenya, Ethiopia or Yemen (beyond the Gulf of Aden). In addition, there are larger communities of Somali refugees in numerous countries in the West. There are 250,000 people each in the United Kingdom and North America, and a further 50,000 in South Africa – and many are now citizens of their host countries. As a result of high immigration, the suburb of Eastleigh, in the Kenyan capital, Nairobi, and Bellville city, near Cape Town, in South Africa are both referred to as ‘Little Mogadishu’ – a reference to the Somali capital.⁵

Somalia did not become safer during the reporting period. There was a continuation of the civil war between rival ethnic groups that began in 1991. The violence has made this part of the Horn of Africa one of the world’s most dangerous regions. The conflict also damaged inter-faith relations and brought nearly all non-Muslim religious activities to a halt. This is compounded by the rise of Islamist forces and the recurrent droughts in the country which endanger people’s lives. Although the international African peacekeeping force, African Union Mission to Somalia (AMISOM), was dispatched to Somalia in March 2014,⁶ the country is still far from achieving a stable peace in the three partly autonomous regions of the country (Mogadishu to the south, Somaliland in the north-west and Puntland in the north-east).

The militant Islamist terror organisation Al-Shabaab has played a lead role in violent attacks over recent years, including in neighbouring countries.

Somalia has lacked a central authority in control of the entire national territory since 1991. De jure for the whole country, but de facto only for regions under the control of the government in Mogadishu, a provisional federal constitution has been in effect since August 2012. This enshrines, among other things, separation of powers, a federal order, and fundamental civil and human rights, including a ban on female genital mutilation which is particularly prevalent in Somalia.⁷

The president is the country's head of state. He appoints the prime minister and the government. In spite of clear criteria distinguishing the two roles being laid down in article 100 of the Somali constitution, there is disagreement about the exact powers of the president and prime minister.⁸ A two-chamber parliament serves as the legislature.

Regarding the status of religion and religious life, the constitutions of all three sub-areas of Somalia make the following stipulations: Islam is the state religion, and the president must be a Muslim; in Somaliland, this requirement also extends to the vice-president.⁹ In 2009, Somali President Sheikh Sharif Ahmed said he would bow to rebel demands and impose *Shari'a* law.¹⁰ The move was seen as being a bid to end conflict between Somali military forces and Islamist fighters. Although the constitution currently in effect – the Provisional Federal Constitution (PFC) – ensures equal rights for all citizens regardless of the religion to which they belong, at the same time it also prescribes, that legislation must be in line with *Shari'a*.¹¹ The PFC applies to all citizens, regardless of religious affiliation. Consequently, even non-Muslims are subject to legislation that follows the principles of *Shari'a*. While not explicitly prohibited, conversion from Islam to another religion is totally unacceptable in this society, which is influenced by Islam.

The situation is similar in Somaliland and Puntland where the respective constitutions expressly prohibit conversion.¹² Non-Muslims are also forbidden from drawing attention to their religion in public.

Islamic instruction is a compulsory subject in all schools throughout the country, whether public or Muslim. Only a few non-Muslim schools are exempt from this requirement. All religious communities must also register with the Ministry of Religious Affairs.¹³

In terms of specific case law, the following applies to all three parts of the country: In the absence of functioning central state authority, specific legal forms oriented around traditional Somali and Islamic law have been developed at the local and regional levels and reflect the forces in control in each region. The judiciary consists of a High Commission of Justice, a Supreme Court, a Court of Appeal and trial courts. Proceedings against the Islamist militia of Al-Shabaab are conducted in military tribunals, the procedures and judgements of which are, however, criticised by human rights activists. The death penalty remains hardest legal sanction.

War has severely compromised the security situation throughout the country for years. Although Al-Shabaab Islamists were expelled from Mogadishu with international assistance, at the time of writing the organisation has committed numerous attacks, both there and in other parts of the country.¹⁴

The human rights situation is disastrous as a result of the long war. There are executions without trial, and frequent violent attacks targeting groups of people and individuals. There is inadequate protection of the civilian population; women and girls have been subjected to genital mutilation. Grave violations of human rights are perpetrated in the area of influence of Al-Shabaab, where a stricter form of *Shari'a* law is in effect including executions and killing by stoning.

While there is no official information on religious affiliation in Somalia, there is no doubt that nearly 100 percent of the population are members of Sunni Islam.¹⁵ Other religious communities make up only small groups, including some Christians who are often migrants from neighbouring countries, as well as some Shi'a Muslims. About 94 percent of the population belonging to the Cushitic Somalis, who are culturally connected through language (Somali) and religion (Islam).¹⁶ Society is broken down into clans and sub-clans that trace back to two original lines.

Incidents

Somalia is a particularly isolated country. Because of the poor security situation – exacerbated by the piracy that thrives off the coast – journalists and other observers rarely dare to report from

inside the country. If there is any news at all, it comes from the Mogadishu area, which is regarded as relatively safe.

There is no official, non-Muslim place of worship in Somalia. Anyone who converts from Islam to another religion can expect to be ostracised.¹⁷

Christians determined to hold services must resort to unconventional measures. Catholics, for instance, celebrated Christmas Mass in 2015 at a military base on the grounds of the airport in Mogadishu.¹⁸ By these means, they circumvented the government's strict ban on celebrating Christmas. The Mass, held at the base of the AMISOM units, was the initiative of Catholic Bishop Giorgio Bertin of Djibouti, Apostolic Administrator of Mogadishu. The Director General of Somalia's Ministry of Religious Affairs, Sheikh Mohamed Khayrow, told the press: "All events related to Christmas and New Year celebrations are contrary to Islamic culture, which could damage the faith of the Muslim community."

The Somali authorities had already strictly prohibited celebrations of Christmas and the New Year in 2013.¹⁹ The rationale was that the country followed the Islamic calendar. In 2015, the reason stated was that Christian celebrations might stir the wrath of the Al-Shabaab extremists, which in turn could be directed against Muslims in Somalia. Bishop Bertin said he was surprised by the recent ban. He said: "It's ridiculous to ban a celebration that wasn't celebrated on a large scale in public in the past anyway." Bishop Bertin reported that many Somalis have now returned to their homes from abroad. The Christians among them had since become accustomed to celebrating Christmas and would like to continue to do so in Somalia.

The chance of an opening of Somali society is rather slim. Since 1991, when Somali President Siad Barre was overthrown and power struggles erupted among various clan-based militias, the continued state of war with up to one million dead has left Somalia without a functioning central government in a position to control the country's entire territory.²⁰ The national government established in Mogadishu in early 2007, is dependent on the presence of the UN-approved AMISOM military mission and only controls part of the country. Other parts of the country have declared independence, consider themselves autonomous, or under the control of al-Shabaab militia.

In 2011, AMISOM and government forces succeeded in driving Al-Shabaab out of Mogadishu; Al-Shabaab was also the target of military interventions by Kenya, from October 2011, and Ethiopia, 2006-9, and again from November 2011. Since then, U.S. unmanned drone air attacks from the air, and offensives by AMISOM and government forces, have been waged in an effort to degrade Al-Shabaab. The group's leader, Ahmed Abdi Godane, was killed by a U.S. drone in September 2014.

Al-Shabaab responded in turn with terrorist attacks in Mogadishu, in the hinterland and in Kenya (in September 2013: 72 killed in an attack on a shopping mall in Nairobi. In April 2015: 148 were killed in an attack on a university in Garissa) and Uganda (July 2010: 76 dead in an attack on a restaurant in Kampala).

The more than 22,000-strong AMISOM, joined by troops stationed in Somalia by Kenya (2012) and Ethiopia (early 2014), has received support from the United States, the United Nations and the European Union. International naval forces have curtailed the offshore activities of Somali pirates who had struck in the waters of the Indian Ocean extending to the Seychelles and near the Maldives.²¹

In September 2014, a study by the Heritage Institute of Policy Studies noted that the security situation in Mogadishu had improved significantly.²² In fact, the first bank ATM was put into operation in Mogadishu in October 2014. For the first time in two decades, people were offered postal services again, and China opened an embassy. But as numerous attacks by Al-Shabaab in Mogadishu (with numerous fatalities) make clear, the expectation is that the Islamist militia will

remain a presence in the capital. In December 2014, for instance, Al-Shabaab waged an attack on the AMISOM base in Mogadishu. In April 2015 several UN employees died in an attack in Puntland's capital city Garowe. In the spring of 2015, there were further attacks in Mogadishu, including an attack on the Ministry of Education.

The incumbent president, Hassan Sheikh Mohamud has been in office since September 2012, together with the government cabinets appointed by him, who are in office under the country's new constitution, which on 1st August 2012 was ratified by a clear majority of the 825-member constitutional assembly appointed by clan elders. In mid-December 2014, Mohamud appointed former Prime Minister Omar Abdirashid Ali Sharmarke as the new premier.

Sharmarke's new cabinet was not sworn in until February 2015, following various changes. The main political mission of the government remains reconstruction, the effort to combat corruption and the stabilisation of the security situation in the country. Precisely this is apt to pose the biggest challenge, particularly as attacks have become more frequent since mid-2016. For instance, up to 300 people were killed in an Al-Shabaab attack on the AMISOM base in Halgan (Hiiran region) on 9th June 2016.²³ According to government reports, more than 240 Al-Shabaab fighters were killed in the effort to defend this military base. According to Al-Shabaab, the attack claimed the lives of around 60 soldiers. Both sides reported significantly lower figures for their own losses after the fact. An explosive-laden vehicle had rammed the entrance to the base.²⁴ This was followed by an attack by dozens of armed fighters armed with small weapons and grenades. The attack shows that Islamist terrorism in Somalia remains as potent a threat today as in recent years, in spite of small improvements in the situation around Mogadishu.

Prospects for freedom of religion

If the situation in Somalia remains unchanged, the country is likely to rank among the list of nations widely classified as "failed states" as its population flees en masse. In 2014, the U.S. non-governmental organisation Freedom House gave Somalia the lowest possible marks for political rights and civil liberties, ranking the country a '7' (scale from 1 = 'free' to 7 = 'unfree'). In terms of the Corruption Perception Index issued by Transparency International, in 2014 Somalia – along with North Korea – was classified in last place from among 175 countries rated (with just eight points out of a possible 100). In 2014, the Global Peace Index (GPI) issued by Vision of Humanity (Australia) ranked Somalia – ahead of Iraq, South Sudan, Afghanistan and Syria – 158th of 162 states (index 3.368 on a scale from 1 to 5).²⁵

It cannot be assumed that noticeable improvements are in store for Somalia's small Christian community in the near future. But it remains to be seen whether society takes notice of the return of Somali Christians. They may yet play a role in the emergence of new freedoms.

The refugee problem, too, is not likely to be contained without foreign support. A total of 224,000 people left Africa to cross the Mediterranean to Europe in boats from January to July 2015 alone.²⁶ Of these, 98,000 refugees reached Italy, with significantly more refugees – 124,000 – arriving in Greece. During the same period, according to the United Nations, more than 2,100 people lost their lives during the crossing.

A great many refugees come from Somalia, among them more and more unaccompanied children and adolescents seeking safety like their adult counterparts in the crossing to Europe. In Italy alone, between January 2015 and the end of July 2015, more than 8,600 children or adolescents came by boat from countries such as Somalia; 5,800 of these were unaccompanied. Most of these young refugees are trying to reach their parents or close relatives in other European countries. At the same time, they run the risk of falling into the hands of human traffickers.

It is difficult to imagine that people will be permanently deterred by a restrictive asylum policy of the kind favoured by some EU countries, as this fails to combat the root causes of flight and expulsion.

The governments in Africa ought to assume much greater responsibility; Europe, too, however, must ask itself whether it could do more in future to combat the causes of mass exodus.

¹ CIA, The World Factbook 2016, estimate July 2015

² Since 2012, when a new internationally-backed government was installed, Somalia has been inching towards stability, but the new authorities still face a challenge from Al-Qaeda-aligned Al-Shabab insurgents:
<http://www.bbc.com/news/world-africa-14094503>

³ CIA, The World Factbook 2016.

⁴ <http://www.unhcr.org/figures-at-a-glance.html>

⁵ Munzinger Archiv 2016

⁶ Associated Press, 'African peacekeepers arrive in Somalia, 1st March 2007
https://web.archive.org/web/20070310123211/http://news.yahoo.com:80/s/ap/20070301/ap_on_re_af/somalia

⁷ Munzinger Archiv 2016

⁸ AllAfrica 'Somalia: Somali Constitution Clear On Roles of President, Prime Minister and Parliament,' 15th November 2013 <http://allafrica.com/stories/201311180388.html>

⁹ U.S. State Department 2016: International Religious Freedom Report for 2014

¹⁰ CNN 'Somali president bends to rebel demand for sharia law', 28th February 2009,
<http://edition.cnn.com/2009/WORLD/africa/02/28/somalia.sharia/index.html>

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Munzinger Archiv 2016

¹⁵ U.S. State Department 2016: International Religious Freedom Report for 2014

¹⁶ Munzinger Archiv 2016

¹⁷ U. S. State Department 2016: International Religious Freedom Report for 2014

¹⁸ http://de.radiovaticana.va/news/2015/12/27/somalia_weihnachtsmesse_auf_milit%C3%A4rbasis/1196936

¹⁹ Daily Nation, 'Somalia bans Christmas celebrations – the Somali Government has banned celebration of Christian festivities in the country' <http://www.nation.co.ke/news/Somalia-bans-Christmas-celebrations/-/1056/2125192/-/152wtjrz/-/index.html>

²⁰ Munzinger Archiv 2016

²¹ Ibid.

²² Ibid.

²³ <http://de.reuters.com/article/somalia-angriff-idDEKCN0YV16D>

²⁴ <http://www.bbc.com/news/world-africa-36487435>

²⁵ Based on Munzinger Archiv 2016

²⁶ UNHCR 2015