

# UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM



## ***The Religion-State Relationship and the Right to Freedom of Religion or Belief:***

## ***A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries***

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Prepared by:  
Tad Stahnke and Robert C. Blitt



UNITED STATES COMMISSION ON  
INTERNATIONAL RELIGIOUS FREEDOM

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U.S. Commission on International Religious Freedom  
800 North Capitol Street, NW  
Suite 790  
Washington, DC 20002  
Tel: 202-523-3240  
Fax: 202-523-5020  
research@uscirf.gov

[www.uscirf.gov](http://www.uscirf.gov)

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Tad Stahnke and Robert C. Blitt\*

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\* Tad Stahnke, JD, Deputy Director for Policy, and Robert C. Blitt, MA JD LLM, Legal Policy Analyst, of the U.S. Commission on International Religious Freedom (USCIRF). USCIRF is an independent federal commission created by the International Religious Freedom Act of 1998 to monitor the status of freedom of thought, conscience, and religion or belief abroad, as defined in the Universal Declaration of Human Rights and related international instruments, and to give independent recommendations to the Secretary of State and Congress. The authors wish to express their gratitude to USCIRF Commissioners and staff for making this study possible and for their comments on earlier drafts. Special thanks to Danielle Simms and Tina Ramirez for their research assistance. The authors invite feedback on this study and can be contacted at [research@uscirf.gov](mailto:research@uscirf.gov).

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## Introduction

Several current developments in constitutional drafting are spurring renewed analysis of the existing constitutional landscape of the Muslim world. In 2004, Afghanistan adopted a new permanent constitution, and Iraq's Governing Council approved an interim constitutional document for Iraq (the "Transitional Administrative Law" or TAL). Iraq's elected national assembly is expected to draft a permanent constitution in 2005. In Sudan, a new interim constitution is anticipated as a product of the Comprehensive Peace Agreement between the Government of the Sudan and the Sudan People's Liberation Movement.

Although the drafting and approval processes have differed markedly in these countries, international legal norms and international actors have played—and will continue to play—important roles. In each country, questions have been raised about the relationship between international legal/human rights norms and existing political arrangements in Muslim countries—especially with respect to the internationally recognized right of freedom of thought, conscience, and religion or belief. The search for reliable answers to these questions has been hindered by the dearth of specific comparative information available regarding relevant constitutional provisions in predominantly Muslim countries,<sup>1</sup> and the absence of any comprehensive survey of texts to provide an overall picture of the constitutional arrangements in such countries. This study represents a small but important first step in filling this urgent resource gap.

### About This Study

This study analyzes the constitutional provisions currently in place concerning the relationship between religion and the state, freedom of religion or belief, and related human rights in predominantly Muslim countries.

The Muslim world stretches from Europe to Africa, through the Middle East and into Asia. Indeed, its geographical diversity mirrors a central finding of this study, that predominantly Muslim countries encompass a variety of constitutional arrangements addressing the role of Islam and the scope of the right to freedom of thought, conscience, and religion or belief, and other related human rights.

In other words, although the countries reviewed in this study share the common denominator of having a majority Muslim population, the documents surveyed here establish a broad assortment of constitutional views—ranging from Islamic republics with Islam as the official state religion, to secular states with strict separation of religion and state. Moreover, diversity on the role of Islam and the extent of guarantees for internationally-recognized human rights are also found in the constitutions of those states where Islam is proclaimed the religion of the state.

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<sup>1</sup> This study defines predominantly Muslim countries as those where more than half of the population is Muslim.

Yet despite the diversity of constitutional structures, several important realities come to light through this comparative review:

- More than half of the world’s Muslim population (estimated at over 1.3 billion) lives in countries that are neither Islamic republics nor countries that have declared Islam to be the state religion. Thus, the majority of the world’s Muslim population currently lives in countries that either proclaim the state to be secular, or that make no pronouncements concerning Islam to be the official state religion.
- Countries in which Islam is the declared state religion may provide constitutional guarantees of the right to freedom of religion or belief that compare favorably with international legal standards.
- Similarly, countries with Islam as the declared state religion may maintain constitutional provisions protecting the related rights to freedom of expression, association and assembly—or the rights of equality and nondiscrimination with regard to, *inter alia*, religion and gender—which compare favorably with international standards.
- A number of constitutions of predominantly Muslim countries incorporate or otherwise reference international human rights instruments and legal norms.

This wide diversity in the constitutional provisions of predominantly Muslim countries, and especially in those countries declaring themselves to be Islamic states or declaring Islam to be the state religion, is not necessarily well understood. For example, we have observed the perception that a provision found in Afghanistan’s new constitution—that “no law can be contrary to the sacred religion of Islam”—represents the norm in the constitutions of predominantly Muslim countries.<sup>2</sup> As this study shows, that perception is incorrect.

### Human Rights as International and Universal Legal Norms

And yet such perceptions and assumptions are not new. Since adoption of the Universal Declaration of Human Rights in 1948, critics have questioned the particular religious roots of human rights, and have explored claims of universality of human rights in the face of contradictory religious attitudes and practices. But the need for protection of certain individual rights deemed inherent and universal—and not contingent upon particular cultures or political arrangements—became a matter of global concern after the horrors of World War II. The world then came together under the auspices of the United Nations to enshrine the natural rights and freedoms available to all persons—including the right of religious freedom—as universal human rights.

The Universal Declaration of Human Rights, adopted in 1948, recognizes in its first sentence the “inherent dignity and the equal and inalienable rights of all members of the

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<sup>2</sup> This study demonstrates that out of 44 predominantly Muslim countries, only 15 constitutions provide for Islamic law, principles, or jurisprudence as a source of, or limitation on, general legislation (See Table II).

human family” as the “foundation of freedom, justice and peace in the world.” Article 18 of the Declaration addresses the relationship of religion and human rights, forbidding distinctions of any kind, including on the basis of religion, with regard to the enjoyment of those rights and freedoms. It states, “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

The crucial role played by the delegate from Egypt, Dr. Mahmoud Azmi, during the drafting and passage of the Declaration serves as an illustration of the aspired universality of this document.<sup>3</sup> Dr. Azmi was an active defender of human rights for all individuals, including for women and minorities. He fervently advocated the passage of the Declaration and pointed to the long, multi-civilizational and multi-religious history of his own country to demonstrate that commitment to human rights is not a western but a universal human concept.

In the end, out of 58 states then in existence, *no* country voted against the Universal Declaration.<sup>4</sup> The Declaration thus represented a consensus at that moment in history on the subject of fundamental human rights, including the freedom of thought, conscience, and religion or belief. From the early years of the United Nations, Christians, Jews, Muslims, Hindus, Sikhs, Buddhists and other religious people and groups have worked together and with one another to advance human rights. These religious groups have emphasized the religious bases for human rights within their own traditions.

Now, more than 50 years later, as Iraq and Afghanistan have embarked on their own constitutional processes, questions about the compatibility of international human rights norms within Islamic societies are being raised anew. Three contentious issues, in particular concerning religion, permeated the drafting and approval of Afghanistan’s constitution and Iraq’s TAL: the appropriate constitutional role for Islam; the scope of guarantees for fundamental human rights, including the right to freedom of thought, conscience, and religion; and the equality of rights and freedoms, especially for women. As Iraq’s newly elected transitional national assembly begins the process of drafting a permanent constitution, it is likely that matters concerning religion and human rights will resurface as key, potentially divisive, issues.

### About the U.S. Commission on International Religious Freedom

The United States Commission on International Religious Freedom (USCIRF or the "Commission") is a bipartisan independent federal agency created by Congress in 1998 to advise the U.S. government on ways to advance the internationally recognized right to

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<sup>3</sup> See Susan Waltz, “Universal Human Rights: The Contribution of Muslim States,” *Human Rights Quarterly* 26 (2004) pp. 800-44.

<sup>4</sup> Eight states abstained from the UN General Assembly vote on the UN Declaration of Human Rights: Byelorussia, Czechoslovakia, Poland, Saudi Arabia, South Africa, the former Soviet Union, Ukraine, and Yugoslavia.



freedom of thought, conscience, and religion or belief as a part of U.S. policy to promote human rights around the world. As such, the Commission is concerned not with the protection of any one religion, but rather with the right of conscience and religious freedom as it is universally recognized in international legal instruments.

The freedom of thought, conscience, and religion or belief protects the rights not only of members of religious minorities within a society, but also protects the rights of individuals within a majority faith to debate and dissent from state-imposed orthodoxies. Promoting religious freedom and related human rights abroad therefore is vital to the world's strategic, as well as humanitarian, interests. When observed, freedom of religion or belief is one of the cornerstones of stable, democratic, productive societies in which the rule of law and human rights are respected and accorded value. When denied, generations of intolerance, authoritarianism and resulting societal instability may be sown.

The USCIRF made specific recommendations on constitutional human rights guarantees in Afghanistan and Iraq in light of the unique role of the U.S. government in these situations. These recommendations were based on the standards set forth in international human rights instruments including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), to which both Afghanistan and Iraq are party.

During their constitutional drafting sessions, Afghan and Iraqi participants, as well as international actors, sought models of constitutional text that reflect international human rights standards. While many such models exist globally, the Commission found that there was a dearth of collected materials on constitutional arrangements in predominantly Muslim countries, including countries where Islam is the state religion, which may afford more readily applicable—and potentially positive—examples.

To be certain, actual implementation of constitutional provisions is dependent on a number of diverse factors, including level of state control, system of government, independence of the judiciary, individual access to the courts, and enforcement of judicial remedies. Relatedly, constitutional text alone may not necessarily reflect what is being done in practice, especially in the field of human rights. That said, constitutional text remains important for setting forth aspirational norms. It lays the groundwork for legal and political reconstruction. Even if not fully implemented upon enactment, constitutional text remains fixed as fundamental law and as a statement of national principles, and can be invoked by future generations seeking to fulfill its promise.

This comparative analysis of constitutional texts was initiated and undertaken by the Commission's legal policy staff, Tad L. Stahnke, Deputy Director for Policy, and Robert Blitt, Legal Policy Analyst. The comparative analysis of text is intended as a departure point, and an invitation for further examination of the interpretation and application of these texts—especially with regard to their practical impact on society, and on the protection of internationally recognized human rights. The Commission and the study's

authors hope that others may take up this task to further advance human rights, and the right to freedom of thought, conscience, and religion or belief, around the globe.

A handwritten signature in black ink, appearing to read "Preeta Bansal". The signature is fluid and cursive, with the first name "Preeta" and last name "Bansal" clearly distinguishable.

Preeta D. Bansal  
Chair, U.S. Commission on International Religious Freedom

## I. The Relationship between Religion and the State

### A. Islam as State Religion

The global Muslim population is estimated at over 1.3 billion.<sup>5</sup> Of this figure, approximately 1 billion Muslims live in 44 predominantly Muslim countries where Muslims constitute more than half of the population.<sup>6</sup> Of the 1 billion Muslims living in predominantly Muslim countries, 28 percent live in ten countries that, according to the constitution, declare themselves to be Islamic states.<sup>7</sup> Generally, a country with a constitutional provision declaring itself to be an Islamic state distinguishes itself by seeking to promote a broader, more significant role for Islam within that country. This role can manifest itself in a number of ways, and the practical ramifications of a constitution declaring an Islamic state are not uniform.

Each of the constitutions of the ten declared Islamic states also proclaim Islam to be the official religion of the state. In other words, all Islamic states declare Islam the official state religion. That said, there are an additional 12 predominantly Muslim countries that have chosen to declare Islam as the official state religion while forgoing the potentially more far-reaching impact of also declaring the country an Islamic state. Taken together, the 22 states that declare Islam the official religion account for 58 percent—or just over 600 million—of the 1 billion Muslims living in predominantly Muslim countries. As with the smaller category of declared Islamic states, the practical ramifications of a declaration of Islam as the religion of the state vary from state to state. Within these countries, there exist a range of legal provisions, policies, and practices in the political, social, religious, and economic spheres.

In contrast to this grouping of 22 states, the constitutions of 11 predominantly Muslim countries proclaim the state to be secular. These countries account for nearly 140 million Muslims, or 13.5 percent of the 1 billion Muslims living in predominantly Muslim countries. Finally, the 11 remaining predominantly Muslim countries have not made any constitutional declaration concerning the Islamic or secular nature of the state, and have not made Islam the official state religion. This group of countries, which includes Indonesia, the world's largest Muslim country, accounts for over 250 million Muslims (see table below).

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<sup>5</sup> Accurate and up-to-date population data for many of the countries surveyed either does not exist or varies widely. Figures presented here are estimates and, unless indicated otherwise, are based on the U.S. Department of State's *Annual Report on International Religious Freedom 2004*, prepared by the Department's Bureau of Democracy, Human Rights and Labor. See <http://www.state.gov/drl/rls/irf/2004/>.

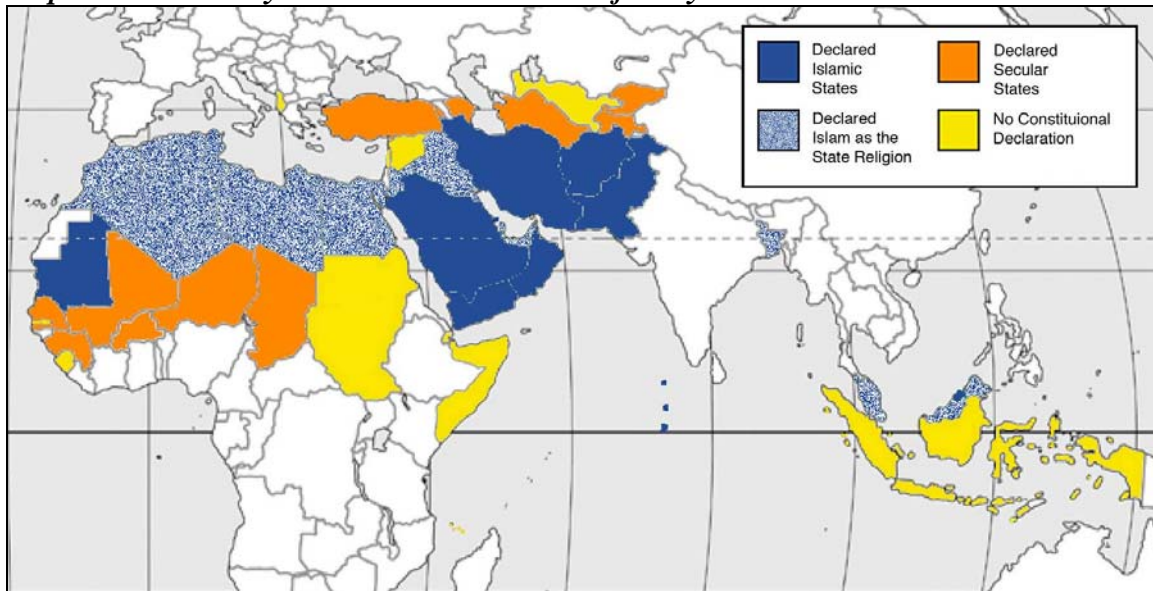
<sup>6</sup> All of the predominantly Muslim countries surveyed here, with the exception of Malaysia, are members of the Organization of the Islamic Conference (OIC). One of the OIC's primary objectives is to "promote Islamic solidarity among Member States." Article 2, Charter of the Organization of the Islamic Conference, March 4, 1972 (<http://www.oic-oci.org/english/main/charter.htm>). Although the OIC consists of 57 member states, only 44 of these countries have a Muslim population greater than 50 percent according to data provided by the U.S. Department of State.

<sup>7</sup> These states are: Afghanistan, Bahrain, Brunei, Iran, Maldives, Mauritania, Pakistan, Qatar, Saudi Arabia, and Yemen.

**Table: Defining a Constitutional Role for Religion**

Declared Islamic States	Declared Islam as the State Religion	No Constitutional Declaration	Declared Secular States
<ol style="list-style-type: none"> <li>1. Afghanistan</li> <li>2. Bahrain</li> <li>3. Brunei</li> <li>4. Iran</li> <li>5. Maldives</li> <li>6. Mauritania</li> <li>7. Oman</li> <li>8. Pakistan</li> <li>9. Saudi Arabia</li> <li>10. Yemen</li> </ol>	Ten Islamic states and: <ol style="list-style-type: none"> <li>11. Algeria</li> <li>12. Bangladesh</li> <li>13. Egypt</li> <li>14. Iraq (TAL)</li> <li>15. Jordan</li> <li>16. Kuwait</li> <li>17. Libya</li> <li>18. Malaysia</li> <li>19. Morocco</li> <li>20. Qatar</li> <li>21. Tunisia</li> <li>22. U.A.E.</li> </ol>	<ol style="list-style-type: none"> <li>1. Albania</li> <li>2. Lebanon</li> <li>3. Syria</li> <li>4. Indonesia</li> <li>5. Comoros</li> <li>6. Djibouti</li> <li>7. Gambia</li> <li>8. Sierra Leone</li> <li>9. Somalia*</li> <li>10. Sudan**</li> <li>11. Uzbekistan</li> </ol>	<ol style="list-style-type: none"> <li>1. Burkina Faso</li> <li>2. Chad</li> <li>3. Guinea</li> <li>4. Mali</li> <li>5. Niger</li> <li>6. Senegal</li> <li>7. Azerbaijan</li> <li>8. Kyrgyzstan</li> <li>9. Tajikistan</li> <li>10. Turkey</li> <li>11. Turkmenistan</li> </ol>
<b>Estimated Muslim Population:</b> 285.5 million or approximately 28 percent of Muslims living in predominantly Muslim countries.	<b>Estimated Muslim Population</b> (including declared Islamic states): 602.5 million or approximately 58 percent of Muslims living in predominantly Muslim countries.	<b>Estimated Muslim Population:</b> 287.5 million or approximately 28.5 percent of Muslims living in predominantly Muslim countries.	<b>Estimated Muslim Population:</b> 140 million or approximately 13.5 percent of Muslims living in predominantly Muslim countries.

**Map: Predominantly Muslim Countries Classified by Relation with Islam**



It also should be noted that of the approximately 300 million Muslims not living in predominantly Muslim countries, the vast majority are found in just a handful of states. In particular, India, Nigeria, China, Russia, Ethiopia, and Tanzania are home to over 270 million Muslims, or nearly 90 percent of those living outside of predominantly Muslim

\* At the time of writing, Somalia has no recognized constitution.

\*\* At the time of writing, parties to Sudan's long-running civil war are contemplating the drafting of a new interim constitution.

countries. These Muslims live under constitutional structures which are either declared secular or silent with respect to a state religion. (See Appendix D, below.)

Under international human rights standards, a state can adopt a particular relationship with the religion of the majority of the population, including establishing a state religion, provided that such a relationship does not result in violations of the civil and political rights of, or discrimination against, adherents of other religions or non-believers. According to the UN Human Rights Committee's General Comment on Article 18 (freedom of thought, conscience, and religion) of the International Covenant on Civil and Political Rights (ICCPR):

The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 [freedom of thought, conscience, and religion] and 27 [rights of members of religious, ethnic and linguistic minorities], nor in any discrimination against adherents to other religions or non-believers. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26 [equal protection of the law without any discrimination].<sup>8</sup>

In a similar vein, the European Court of Human Rights has stated that the mere existence of a state religion or established church does not violate the right to freedom of religion or belief as long as individuals are free to leave that religion or church.<sup>9</sup>

## **B. Alternatives to Constitutional Recognition of a State Religion**

Several countries around the world, Muslim and non-Muslim alike, have made a special recognition of a particular religion in the preamble or body of the constitution, without adopting a state religion or established church or any facially operative constitutional distinction between religions or among adherents of different religions. For example, Sudan's constitution provides that: "Islam is the religion of the majority of the population. Christianity and customary creeds have considerable followers." The constitution of Greece states that the "prevailing religion in Greece is that of the Eastern

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<sup>8</sup> Para. 9, Human Rights Committee, "General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18)", UN Doc. CCPR/C/21/Rev.1/Add.4, July 30, 1993 ([http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument)) (hereinafter General Comment 22).

<sup>9</sup> *Darby v. Sweden*, 187 Eur. Ct. H.R. (ser. A) (1990), [1990] ECHR 24 (October 23, 1990), 13 E.H.R.R. 774 (1991) (<http://hudoc.echr.coe.int/Hudoc1doc/HEJUD/sift/227.txt>).

Orthodox Church of Christ,”<sup>10</sup> the Georgian constitution “recognizes [the] special role of the Apostolic Autocephal Orthodox Church of Georgia,”<sup>11</sup> and Bulgaria’s constitution asserts Eastern Orthodox Christianity as the “traditional religion.”<sup>12</sup> In addition, the constitution of Thailand requires that the state “shall patronize and protect Buddhism and other religions,”<sup>13</sup> and according to Argentina’s constitution, the “Federal Government supports the Roman Catholic Apostolic Faith.”<sup>14</sup>

Finally, some constitutions make reference to God or other religious concepts but are otherwise secular in nature. For example, the Indonesian constitution provides that the “State shall be based upon the belief in the One and Only God.”<sup>15</sup> The range of references to religion demonstrated here results in a variety of constitutional practices that characterize a given state’s relationship with religion. In practice, some of these relationships may contribute to violations of the right to freedom of thought, conscience, and religion or belief, and other human rights.

### **C. Constitutional Role for Islamic Law, Principles, or Jurisprudence**

#### ***i) Overview***

Twenty-two of 44 predominantly Muslim countries recognize some constitutional role for Islamic law, principles, or jurisprudence. This includes 18 of the 22 countries where Islam is the religion of the state,<sup>16</sup> as well as four predominantly Muslim countries where Islam is not the declared state religion.<sup>17</sup> In countries where a constitutional role for Islam is established, that role varies and in some cases may be restricted to specific matters, such as personal status issues or the creation of councils designed to advise the government concerning questions related to religion and religious life.<sup>18</sup> (See Appendix A below.)

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<sup>10</sup> Article 3(1), Constitution of Greece, 1975 (as amended to 2002).

<sup>11</sup> Article 9(1), Constitution of Georgia, 1995 (as amended to 2003).

<sup>12</sup> Article 13(3), Constitution of the Republic of Bulgaria, 1991 (as amended to 2003).

<sup>13</sup> Section 73, Constitution of the Kingdom of Thailand, 1997.

<sup>14</sup> Article 2, Constitution of the Argentine Nation, 1994.

<sup>15</sup> Article 29(1), Constitution of the Republic of Indonesia, 1945 (as amended to 2002).

<sup>16</sup> Afghanistan, Algeria, Bahrain, Egypt, Iraq, Iran, Jordan, Kuwait, Libya, Malaysia, Maldives, Mauritania, Oman, Pakistan, Qatar, Saudi Arabia, U.A.E, and Yemen.

<sup>17</sup> The additional four states that invoke Islamic principles, law, or jurisprudence in their constitutions without having declared Islam as the state religion are Comoros, Gambia, Sudan, and Syria. The four states that declare Islam the state religion but do not establish any additional role for Islamic law, principles, or jurisprudence are Bangladesh, Brunei, Morocco, and Tunisia.

<sup>18</sup> For example, both the constitutions of Jordan and Malaysia limit the role of Islamic law. Under Jordan’s constitution, Islamic law applies only to personal status law and matters pertaining to *waqfs* (Muslim religious endowments or trusts). Arts. 102-110, Constitution of the Hashemite Kingdom of Jordan, 1952 (as amended to 1984). Likewise, in Malaysia, the application of Islamic law is restricted to certain enumerated areas, and in most cases falls within state jurisdiction under the federal division of powers. See Ninth Schedule, List II—State List, Constitution of Malaysia, 1957 (as amended to 1994). Although the constitution of Gambia does not declare Islam as the state religion, it similarly restricts the application of Sharia as a source of legislation to “matters of marriage, divorce and inheritance.” Art. 7, Constitution of the Gambia, 1996.

### ***ii) Islam as Source of Legislation***

The constitutions of several countries where Islam is the state religion, including Egypt and the Gulf states, establish Islamic law, principles, or jurisprudence as “the basis for,” “the principal source of,” “a principal source of,” or “the source of” legislation. This practice of declaring Islamic law as a basis for legislation also occurs in countries such as Syria and Sudan, which do not have a declared state religion.

In several of these cases, no additional constitutional guidance is given to address the question of what governmental body, process, or mechanism, if any, is charged with assessing the conformity of legislation with Islamic principles or law. Moreover, many of these constitutions fail to provide any further definition of the terms “Islam,” “sharia” (Islamic law) or the “fundamentals,” “principles,” or “jurisprudence” of Islam. In Egypt, this role has fallen to the Supreme Constitutional Court, whereas in Pakistan, the constitution specifically assigns this role to the Federal Shariat Court.<sup>19</sup> The ramifications of establishing a constitutionally-mandated legislative role for Islam vary from country to country, though a full analysis on this subject is beyond the scope of this study.

### ***iii) Other Provisions for Recognition of Islamic Principles***

Other examples of how various constitutions lend meaning to or implement a function for Islamic principles demonstrate that diverse arrangements exist. Article 3 of Afghanistan’s new constitution features a “repugnancy clause” that provides “no law can be contrary to the sacred religion of Islam and the values of this Constitution.” Moreover, under the new constitution, ordinary legislation may be used to restrict or trump the constitutional rights of individual Afghans, since the scope of many of these rights are made subject to “provisions of the law.”<sup>20</sup> In a related vein, Afghanistan’s constitution also requires that courts render decisions based on “provisions of the Hanafi jurisprudence” when “there is no provision in the Constitution or the laws with respect to a case under consideration.”<sup>21</sup>

For other countries, Islamic principles are constitutionally recognized, but neither self-executing nor judicially enforceable. Article 8(1A) of the Bangladesh constitution provides that “Absolute trust and faith in the Almighty Allah shall be the basis of all actions.”<sup>22</sup> However, part 2 of the same article states that this principle, while “fundamental to the governance of Bangladesh...shall not be judicially enforceable.” Under Algeria’s constitution, state institutions are not permitted to engage in “practices contrary to Islamic morals.”<sup>23</sup> This provision is supported by a constitutionally mandated High Islamic Council charged with: (a) encouraging and promoting *ijtihad*, or interpretation of Islamic law; (b) providing its opinion on religious rules; and (c) presenting periodic reports of its activity to the President.<sup>24</sup> The constitutions of

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<sup>19</sup> See Part V below.

<sup>20</sup> For example, under art. 2, freedom to perform religious rites is permitted only “within the limits of the provisions of law.” See also arts. 23, 27, 35, 37, 39, 40 and 50.

<sup>21</sup> Art. 130, Constitution of Afghanistan.

<sup>22</sup> Art. 8(1A), Constitution of Bangladesh.

<sup>23</sup> Art. 9, Constitution of Algeria.

<sup>24</sup> Arts. 171-72, Constitution of Algeria.

Mauritania, Comoros, and Pakistan also establish advisory bodies that assess laws or other official matters in light of Islamic principles.<sup>25</sup>

***iv) Other Principles in Addition to Islam May Be Sources of Legislation or the Basis for Determining Constitutional Repugnancy***

In some countries, other principles are mentioned as sources of legislation alongside Islamic law, principles, or jurisprudence. For example, in addition to “Islamic law and the consensus of the nation, by referendum,” Sudan recognizes the “Constitution and custom” as sources of legislation.<sup>26</sup> A variation of this type of clause is found in article 9 of Algeria’s constitution, which states that “The [government] institutions forbid...practices contrary to Islamic morals and the values of [the] November [revolution].”

Significantly, Iraq’s TAL establishes not only Islam as a check on legislation, but provides that legislation cannot contradict democratic principles or human rights guarantees as well. Article 7(a) of Iraq’s TAL provides that “No law that contradicts the universally agreed tenets of Islam, the principles of democracy, or the rights cited in...this Law may be enacted during the transitional period.”<sup>27</sup>

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<sup>25</sup> Mauritania’s constitution establishes a High Islamic Council (art. 94), the Comoros constitution establishes a Council of the Ulemas to assist the government “in formulating decisions that affect the religious...life of the country” (art. 36), and Pakistan’s constitution creates a Council of Islamic Ideology (art. 228).

<sup>26</sup> Art. 65, Constitution of Sudan.

<sup>27</sup> Notably, a recent conference on Islam and democracy concluded that if a constitution is to recognize Islamic law or principles, the relevant constitutional language should “always recognize not only the basic principles of Islam, but also the principles of democracy, pluralism, social justice, rule of law, and [a country’s] international obligations.” Rand Center for Asia Pacific Policy, “Democracy and Islam in the New Constitution of Afghanistan: Conference Proceedings,” January 2003, 2. USCIRF Commissioner Khaled Abou El Fadl was a participant in this conference before his appointment to the Commission.



## II. Guarantee of the Right to Freedom of Religion or Belief

### A. Minimum International Standards for Constitutional Provisions

The minimum international standards required for an effective constitutional guarantee of the right of freedom of religion or belief may be extracted from the UDHR and the ICCPR. These minimum standards include:

- Universal applicability to everyone as individuals, regardless of religion or belief;
- The freedom to manifest a religion or belief, either individually or in community with others, in public or private;
- Freedom to manifest *all aspects* of a religion or belief, including worship, teaching, practice, and observance;
- No coercion that would impair the freedom to have or to adopt a religion or belief of one's choice.<sup>28</sup> (Aspects of a constitution that could constitute coercion include: (a) no provision for equality or the prohibition of discrimination on the basis of religion; or (b) separate political rights for citizens of different religions); and
- Limitations on the right to freedom of thought, conscience, and religion or belief only in certain circumstances as provided for under international law (see below).

### B. Relevant International Human Rights Instruments

#### *i) Universal Declaration of Human Rights (UDHR)*

Article 18 of the UDHR 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.<sup>29</sup>

#### *ii) International Covenant on Civil and Political Rights (ICCPR)*

Article 18 of the ICCPR provides:

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<sup>28</sup> According to the UN Human Rights Committee, "Article 18.2 [of the ICCPR] bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 [political rights] and other provisions of the Covenant, are similarly inconsistent with article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature." Para. 5, General Comment 22.

<sup>29</sup> *Universal Declaration of Human Rights*, adopted and proclaimed by General Assembly resolution 217A (III), December 10, 1948 (<http://www.un.org/Overview/rights.html>).

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.<sup>30</sup>

### **C. Implementation of International Standards in Predominantly Muslim Countries**

#### ***i) Constitutional Provisions that Compare Favorably***

Several predominantly Muslim countries have constitutional guarantees of the right to freedom of religion or belief that, on their face, compare favorably with these international standards (see Appendix B). For example, the constitutions of Pakistan and Bangladesh provide that, subject "to law, public order and morality...every citizen shall have the right to profess, practice and propagate his religion,"<sup>31</sup> and Iraq's TAL guarantees that "Each Iraqi has the right to freedom of thought, conscience, and religious belief and practice. Coercion in such matters shall be prohibited."<sup>32</sup>

#### ***ii) Constitutional Provisions that Compare Less Favorably***

Conversely, several countries where Islam is the state religion have constitutional provisions regarding the right to freedom of religion or belief that, on their face, do not compare favorably with all aspects of international standards. Examples include provisions:

- (a) Limited to worship or the practice of religious "rites";<sup>33</sup>
- (b) Limited to one or more religions or class of religions;<sup>34</sup> or

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<sup>30</sup> *International Covenant on Civil and Political Rights*, adopted by General Assembly resolution 2200A (XXI), December 16, 1966, entry into force March 23, 1976 ([http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm)) (hereinafter ICCPR).

<sup>31</sup> Art. 20(a), Constitution of Pakistan. Article 41(1)(a) of the Bangladesh constitution is drafted in a similar manner.

<sup>32</sup> Art. 13(f), Iraq TAL. The TAL also "guarantees the full religious rights of all individuals to freedom of religious belief and practice." See Art. 7(a), TAL.

<sup>33</sup> See for example, Egypt (art. 46), Morocco (art. 6), and Afghanistan (art. 2).

- (c) Allowing limitations on freedom of religion by any ordinary law rather than only those limitations permitted under international law.<sup>35</sup>

***iii) Freedom of Religion or Belief as a Right of Every Individual***

Several countries with predominantly Muslim populations have constitutions that clearly specify that the right to freedom of religion or belief is to be extended to either every citizen or every individual. For example, Pakistan and Senegal extend the right of freedom of religion and belief to “every citizen” and “all citizens,” whereas Indonesia’s provision covers “every person.”<sup>36</sup>

However, other constitutional provisions in many countries where Islam is declared to be the state religion are less clear, raising the possibility that only groups, rather than individuals, are afforded protection. Failure to provide explicit protection for individuals means that—depending upon interpretation and application—the group or the state may define the exact parameters of the right to freedom of religion or belief rather than the individual. Consequently, individuals may not be protected fully in their freedom to dissent from established religious teachings (i.e. an individual’s right to have a religion or belief that differs or dissents from the rules or doctrines of a religious group with whom that individual might be associated).<sup>37</sup>

***iv) Constitutional Safeguards Against Coercion in Matters of Religious Belief***

Finally, several constitutions contain provisions designed to protect individuals against coercion that would impair the freedom to have or to adopt a religion or belief, further bolstering protections for the freedom of thought, conscience, and religion or belief. Examples of countries that include such provisions in their constitutions include Albania, Bangladesh, Pakistan, Azerbaijan, Sierra Leone, Turkey, Malaysia, and Sudan.<sup>38</sup> These provisions cover a wide range of areas and generally seek to protect individuals from being compelled to:

- Participate in religious practices or become a member of a religious community;
- Reveal or profess a religion or belief publicly;
- Receive religious instruction or education of a religion that is not one’s own;
- Take an oath contrary to one’s religion; or
- Pay a tax that is used for the purposes of a religion other than one’s own.

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<sup>34</sup> For example, under article 13 of Iran’s constitution, “Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies...” Under art. 2 of Afghanistan’s constitution, recognition of religious freedom is limited to non-Muslims.

<sup>35</sup> See for example, Afghanistan (art. 2), Yemen (art. 41), Bahrain (art. 22), Kuwait (art. 35), Maldives (art. 25), and Libya (art. 2).

<sup>36</sup> Pakistan (art. 20(a)), Senegal (art. 8), and Indonesia (art. 28(e)). Other countries with similar individual guarantees include Albania, Bangladesh, Malaysia, Mauritania and Kyrgyzstan (see Appendix B).

<sup>37</sup> Several predominantly Muslim countries have constitutions that do not frame freedom of religion and belief specifically as an individual right, including Algeria (art. 36), Bahrain (art. 22), and Egypt (art. 46).

<sup>38</sup> Albania (art. 24(3)), Bangladesh (art. 41(2)), Pakistan (art. 21), Azerbaijan (art. 71(IV)), Sierra Leone (art. 24), Turkey (art. 24), Malaysia (art. 11(2)), and Sudan (art. 24) (see Appendix B below).

v) Table: Comparison of Constitutional Provisions on Freedom of Religion to International Standards

Generally Compare Favorably	Establish Specific Safeguards Against Religious Coercion	No Provisions or Provision only for the Right to Worship	Provisions that Do Not Define Rights on an Individual Basis or Limit Rights to One or More Enumerated Groups	Provisions that Permit Limitations Not Enumerated Under International Standards
<b>Middle East &amp; North Africa</b> Iraq (TAL)	<b>Middle East &amp; North Africa</b> Iraq (TAL)	<b>Middle East &amp; North Africa</b> Algeria* Bahrain Egypt Iran Jordan Kuwait* Lebanon Libya Morocco Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*	<b>Middle East &amp; North Africa</b> Bahrain Egypt Iran Jordan Lebanon Libya Oman Syria U.A.E.	<b>Middle East &amp; North Africa</b> Bahrain Iran Jordan Kuwait Libya Oman U.A.E.
<b>South Asia</b> Bangladesh Pakistan	<b>South Asia</b> Bangladesh Pakistan	Jordan Kuwait* Lebanon Libya Morocco Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*	Jordan Lebanon Libya Oman Syria U.A.E.	Jordan Kuwait Libya Oman U.A.E.
<b>East Asia</b> Indonesia Malaysia	<b>East Asia</b> Malaysia	Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*	Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*	Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*
<b>Africa</b> Chad Djibouti Gambia Guinea Mali Niger Senegal Sierra Leone Sudan	<b>Africa</b> Sierra Leone Sudan	Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*	Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*	Oman Qatar Saudi Arabia* Syria Tunisia* U.A.E. Yemen*
<b>Eastern Europe &amp; Eurasia</b> Albania Azerbaijan Kyrgyzstan Tajikistan Turkey Turkmenistan Uzbekistan	<b>Eastern Europe &amp; Eurasia</b> Albania Azerbaijan Turkey Uzbekistan	<b>South Asia</b> Afghanistan	<b>South Asia</b> Afghanistan	<b>South Asia</b> Afghanistan
		<b>East Asia</b> Brunei Maldives*	<b>East Asia</b> Maldives	<b>East Asia</b> Brunei Maldives
		<b>Africa</b> Comoros* Mauritania* Somalia**	<b>Africa</b> Burkina Faso	<b>Africa</b> Djibouti Gambia Niger Sierra Leone
		<b>Eastern Europe &amp; Eurasia</b> n/a	<b>Eastern Europe &amp; Eurasia</b> n/a	<b>Eastern Europe &amp; Eurasia</b> Turkey

\* Countries with no constitutional provisions concerning freedom of religion specifically.

\*\* At the time of writing, Somalia has no recognized constitution.

## D. Constitutional Restrictions on the Right to Freedom of Religion or Belief

Several countries with constitutions establishing Islam as the state religion either do not contain guarantees of the right to freedom of religion or belief, or contain guarantees that, on their face, do not compare favorably with all aspects of international standards. Examples of such countries include Iran, Libya, and Oman. Some countries, such as Egypt and Saudi Arabia, assert that these restrictions flow from the position of Islam as a declared state religion and/or the role of Islam or sharia in the legal system.<sup>39</sup> Nevertheless, the United Nations Human Rights Committee (HRC), the body that assesses compliance with the International Covenant on Civil and Political Rights (ICCPR), has concluded that restrictions made on this basis constitute violations of the ICCPR. For example, the HRC expressed concern about “infringements of the right to freedom of religion or belief” in Egypt, deplored “the ban on worship imposed on the Bahai community,” and called on the government to ensure that “its legislation and practice are consistent with article 18 of the Covenant.”<sup>40</sup> In the case of Yemen, the HRC called on the government to “ensure that its legislation and practice are in line with the provisions of the Covenant and in particular that the right of persons to change their religion...is respected.”<sup>41</sup> In addition, the Committee noted “with concern the situation of discrimination against women in matters of personal status, more particularly in marriage and divorce as well as the rights and duties of spouses,” and requested that the government ensure that “in all fields in the life of society, women enjoy complete equality with men, both in law and in fact.”<sup>42</sup> (see Part E below).

In all cases, it should be emphasized that differences may exist in practice between written provisions and actual enforcement of rights. Indeed, violations of the right to freedom of religion or belief are not restricted to countries with a declared state religion; similar violations likewise may occur in countries where the constitution does not provide for a state religion or established church.<sup>43</sup>

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<sup>39</sup> See UN Human Rights Committee, “Summary Record of the 2048<sup>th</sup> Meeting: Consideration of Reports Submitted By Egypt Under Article 40 of the Covenant,” UN Doc. CCPR/C/SR.2048, October 23, 2002, UN Committee on the Elimination of Racial Discrimination, “Reports Submitted By Saudi Arabia Under Article 9 of the Convention,” UN Doc. CERD/C/370/Add.1 and Corr.1, September 20, 2001, and UN Committee on the Elimination of Racial Discrimination, “Summary Record of the 1558<sup>th</sup> Meeting: Consideration of Reports, Comments and Information Submitted By Saudi Arabia Under Article 9 of the Convention,” UN Doc. CERD/C/SR.1558, March 10, 2003.

<sup>40</sup> Para. 17, Human Rights Committee, “Concluding Observations of the Human Rights Committee: Egypt” UN Doc. CCPR/CO/76/EGY, November 28, 2002 (<http://www.unhchr.ch/tbs/doc.nsf/0/89189f6057f03fdec1256c68002f1ec4?Opendocument>).

<sup>41</sup> Para. 20, Human Rights Committee, “Concluding Observations of the Human Rights Committee: Yemen” UN Doc. CCPR/CO/75/YEM, July 26, 2002 ([http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/83b4694b87b1f1abc1256c0500253d65?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/83b4694b87b1f1abc1256c0500253d65?Opendocument)).

<sup>42</sup> Para. 7, Human Rights Committee, “Concluding Observations of the Human Rights Committee: Yemen” UN Doc. CCPR/CO/75/YEM, July 26, 2002.

<sup>43</sup> After reviewing the state party report submitted by Uzbekistan, the HRC concluded that the government must abolish legislation that requires “religious organizations and associations to be registered to be entitled to manifest their religion and beliefs,” as well as a Penal Code provision “which penalizes the failure of leaders of religious organizations to register their statutes,” since those provisions were found to violate article 18 of the ICCPR. Para. 24, Human Rights Committee, “Concluding Observations of the Human Rights Committee: Uzbekistan,” UN Doc.

That said, several countries with a declared state religion or an established church provide generally effective protection in law and in practice to the right to freedom of religion or belief and related human rights (for example, Norway, Denmark, and Iceland). The circumstances under which such protection occurs include:

- (a) Constitutional and/or legislative guarantees in line with international standards for upholding freedom of thought, conscience, religion or belief and related human rights, as well as effective mechanisms to enforce these guarantees in practice;
- (b) Enforceable prohibitions of discrimination on account of religion or belief; and
- (c) Strong adherence to rule of law and international human rights norms, including access to enforcement mechanisms for these norms through international institutions such as the European Court of Human Rights.

#### **E. Permissible Limitations on Freedom to Manifest a Religion or Belief Under International Law**

Under international standards, no limitations whatsoever are permitted on the freedom to *have or adopt* a religion or belief of one's choice. The guarantee of freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education also cannot be restricted.<sup>44</sup> However, the freedom to *manifest* a religion or belief may be limited in certain circumstances according to ICCPR Art. (18)(3). In the words of the UN's HRC:

- Article 18.3 [of the ICCPR] *permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.*
- In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26.
- *Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18.*
- The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if

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CCPR/CO/71/UZB 26/04/2001 April 24, 2001  
([http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.71.UZB.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.71.UZB.En?Opendocument)).

<sup>44</sup> Para. 8, General Comment 22.

- they would be allowed as restrictions to other rights protected in the Covenant, such as national security.
- Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.
  - The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.<sup>45</sup>

Despite these principles laid out by the HRC, a number of predominantly Muslim countries that have ratified the ICCPR have constitutional provisions that, on their face, permit limitations that are not consistent with international standards.<sup>46</sup> For example, in Afghanistan, the right to manifest religion is contingent upon “provisions of the law”,<sup>47</sup> which may enable limitations of the right based on non-enumerated grounds. In addition, provisions in other countries introduce limitations not recognized under international standards including recognition of a limited list of religious communities,<sup>48</sup> “public policy,”<sup>49</sup> “established customs,”<sup>50</sup> “decorum,”<sup>51</sup> “the order established by law and the regulations,”<sup>52</sup> and state sovereignty and national security.<sup>53</sup>

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<sup>45</sup> Para. 8, General Comment 22 (emphasis added).

<sup>46</sup> At the same time, specific limitations not in accordance with the views of the HRC also exist in countries such as Maldives, which has not signed the ICCPR. Under the Maldives constitution, the rights to freedom of conscience and expression may be restricted on the grounds of “protecting the basic tenets of Islam.” Art. 25, Constitution of the Republic of Maldives.

<sup>47</sup> Art. 2, Constitution of Afghanistan.

<sup>48</sup> Art. 13, Constitution of Iran.

<sup>49</sup> Art. 35, Constitution of Kuwait.

<sup>50</sup> For example, Libya (art. 2), and Bahrain (art.22).

<sup>51</sup> Art. 14, Constitution of Jordan.

<sup>52</sup> Art. 11, Constitution of Djibouti.

<sup>53</sup> Art. 25, Constitution of Gambia. Article 14 of Turkey’s constitution also expresses a limitation to the right of freedom of religion based on national security grounds.

### III. Related Rights: Freedom of Expression, Association, and Assembly

#### A. Overview

Many manifestations of religion or belief also fall within the scope of the related rights of freedom of expression, association, and assembly. Thus, protection of the right to freedom of religion or belief is enhanced by effective constitutional guarantees of these related rights.

As with the freedom to manifest religion or belief, the rights to freedom of expression, association, and assembly also are subject to restriction only in limited circumstances under international standards such as the ICCPR. Restrictions on these rights may be imposed only as prescribed by law and where necessary “in the interests of national security or public safety, public order...the protection of public health or morals or the protection of the rights and freedoms of others.”<sup>54</sup>

#### B. Application of Related Rights

In several countries where Islam is the religion of the state, the constitutional provisions on the rights to freedom of expression, association, and assembly provide that the right can be circumscribed by any ordinary act of the legislature, rather than under the specific circumstances envisioned under international law.<sup>55</sup> However, other countries having Islam as a state religion do maintain provisions on these rights that, on their face, compare favorably with international standards.<sup>56</sup>

From among the related human rights discussed above, freedom of religion or belief is intimately linked with the right to freedom of expression. For example, enforcement of offenses of blasphemy and injury to religious feelings may conflict with the right to freedom of expression. These types of laws “can be used to suppress the expression of religious beliefs or opinions on religious issues that are perceived to be incorrect by or are unpopular with adherents of other religious groups, particularly the dominant group.”<sup>57</sup> Although outside the reach of this study, a robust analysis of how such conflicts are addressed in practice is crucial for determining the scope of freedom of religion or belief in a given country.

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<sup>54</sup> See articles 19, 21 and 22, ICCPR.

<sup>55</sup> See for example Pakistan, art. 19, which subjects the right of freedom of expression to, *inter alia*, “any reasonable restrictions imposed by law in the interest of the glory of Islam,” Bahrain, art. 23, which allows for freedom of expression “provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused,” and Yemen, art. 41, which provides that “The State shall by law secure freedom of thought and expression whether orally, in writing or in pictures and as provided for by law.”

<sup>56</sup> See for example Algeria, art. 36 and Bangladesh, art. 41.

<sup>57</sup> Tad Stahnke, “Proselytism and the Freedom to Change Religion in International Human Rights Law,” 1999 B.Y.U. L. Rev. 289.



## IV. Equality and Prohibition of Discrimination

### A. Overview

Many of the constitutions of predominantly Muslim countries contain provisions addressing:

- (a) Equality before the law;
- (b) Equality of rights and freedoms (including in some cases specific provision of equal rights for men and women); and
- (c) Non-discrimination in rights or other official activities on the basis of, *inter alia*, religion and gender.

### B. Constitutional Provisions on Equality and Nondiscrimination that Compare Favorably with International Standards

Not all countries with Islam as a declared state religion have opted to make equality subject to Islamic law. Several countries with Islam as the state religion maintain equality provisions that reflect international standards.<sup>58</sup> For example, article 12 of Iraq's TAL guarantees that:

All Iraqis are equal in their rights without regard to gender, sect, opinion, belief, nationality, religion, or origin, and they are equal before the law. Discrimination against an Iraqi citizen on the basis of his gender, nationality, religion, or origin is prohibited. Everyone has the right to life, liberty, and the security of his person. No one may be deprived of his life or liberty, except in accordance with legal procedures. All are equal before the courts.

Oman's constitution states that "All citizens are equal before the Law and share the same public rights and duties. There is no discrimination between them on the ground of gender, origin, colour, language, religion, sect, domicile, or social status."<sup>59</sup> Similarly, Algeria provides that "citizens are equal before the law without any possible discrimination on the basis of birth, race, gender (sex), opinion or all other conditions or personal or social circumstance."<sup>60</sup>

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<sup>58</sup> According to the HRC, discrimination, as used in the ICCPR, "should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms." In the same respect, the HRC also found that article 26 of the ICCPR (equal protection) does not "merely duplicate the guarantee already provided for in article 2 but provides in itself an autonomous right. It prohibits discrimination in law or in fact in any field regulated and protected by public authorities." Para. 7 and 12, Human Rights Committee, "General Comment No. 18: Non-discrimination", CCPR/C/21/Rev.1/Add.1 (1989), 10 November 1989 (<http://www.unhcr.ch/tbs/doc.nsf/0/3888b0541f8501c9c12563ed004b8d0e?Opendocument>).

<sup>59</sup> Oman, art. 17.

<sup>60</sup> Algeria, art. 29.

The constitutions of some predominantly Muslim countries go even further in asserting the right of equality and protection from discrimination. For example, Syria's constitution guarantees "for women all opportunities enabling them to fully and effectively participate in the political, social, cultural, and economic life" and provides that "citizens are equal before the law in their rights and duties."<sup>61</sup> Likewise, Chad's constitution ensures that "Chadians of either sex have the same rights and the same duties" and extends "to all equality before the law, without distinction of origin, race, sex, religion, political opinion, or social position."<sup>62</sup>

### **C. Constitutional and Other Limitations on the Rights to Equality and Nondiscrimination**

At least five constitutions of countries where Islam is the religion of the state, including Egypt and Bahrain, explicitly make equality subject to Islamic principles or the rules of Islamic jurisprudence regarding the treatment of men and women.<sup>63</sup> Qualifying equality in this way may subject women to discriminatory treatment in law and practice, particularly with regard to personal status issues such as marriage, divorce, and inheritance. Typically, this issue does not arise in secular states, where the principle of equality is expressed without qualification.

Still other predominantly Muslim countries' constitutions provide exceptions from general nondiscrimination provisions for personal status issues such as adoption, marriage, and divorce,<sup>64</sup> or limit the application of equality to specific rights,<sup>65</sup> or do not address the issues of equality and discrimination altogether.<sup>66</sup>

Finally, the constitutions of a number of predominantly Muslim countries may restrict to Muslim citizens the right to serve in government positions, and particularly to hold executive power. This is achieved by requiring a specific Islamic oath or by stipulating that only Muslims can hold a given position. For example, in Yemen, the president, vice-president, members of the House of Representatives, prime minister, and other ministers must take the following constitutional oath: "I solemnly swear to God the Almighty that I shall abide by the Holy Koran and the Sunnah of Prophet Muhammed..."<sup>67</sup> Alternatively, according to the Tunisian constitution, only a Tunisian citizen "of Moslem religion... may present himself as a candidate for the Presidency of the Republic," in Syria, "the religion of the President of the Republic shall be Islam," and in Pakistan, "A person shall not be qualified for election as President unless he is a Muslim."<sup>68</sup> In other predominantly Muslim countries, an Islamic oath is required by individuals before being permitted to take office.

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<sup>61</sup> Syria, arts. 45 and 25.

<sup>62</sup> Chad, arts. 13 and 14.

<sup>63</sup> Bahrain, art. 5(b); Egypt, art. 11; Iran, arts. 20-21; Saudi Arabia, art. 8; and Yemen, art. 31.

<sup>64</sup> Sierra Leone, art. 27(4)(d) and Gambia, art. 33(5)(c).

<sup>65</sup> For example, compare the Moroccan constitution's provision "Men and Women enjoy equal political rights" (art. 8), with Azerbaijan's more broadly formulated, "Men and women have equal rights and freedoms" (art. 25).

<sup>66</sup> See for example Brunei.

<sup>67</sup> Yemen, art. 159.

<sup>68</sup> Tunisia, art. 40, Syria art. 3(1), and Pakistan art. 41(2).

This restriction also may manifest itself in more specific forms, whereby practice of a *particular strand* of Islam is established—often in favor of another Muslim community—as a prerequisite to political office. For example, in the Maldives, a “person shall be qualified to be elected as President if he is *a Muslim of Sunni following*;” and in Brunei, “No person shall be appointed to be Prime Minister unless he is a Brunei Malay professing the Muslim religion *and belonging to the [Shafeite] sect of that religion*.”<sup>69</sup>

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<sup>69</sup> Maldives, art. 34(a), and Brunei, art. 4(5) emphasis added.

## **V. Constitutional Law: Supremacy, Remedies for Rights Violations, and Revisions**

### **A. Laws Inconsistent with Fundamental Rights May Be Void**

The constitutions of at least three predominantly Muslim countries which have established Islam as the state religion, as well as Iraq's TAL, contain a provision that makes void any law inconsistent with fundamental rights as set out in the constitution.<sup>70</sup> For example, article 26 of Bangladesh's constitution provides:

- (1) All existing law inconsistent with the provisions [on fundamental rights] shall, to the extent of such inconsistency, become void on the commencement of this Constitution.
- (2) The State shall not make any law inconsistent with any provisions of this Part, and any law so made shall, to the extent of such inconsistency, be void.

Pakistan's constitution also provides safeguards for protection of fundamental rights under article 8:

- (1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter [on fundamental rights] shall, to the extent of such inconsistency, be void.
- (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent [sic] of such contravention, be void.<sup>71</sup>

More generally, the constitutions of several predominantly Muslim countries provide for the supremacy of the constitution over other laws and regulations, and also establish a constitutional court or other official body to assess the conformity of laws to the constitution, including guarantees of human rights. Malaysia's provision on constitutional supremacy is not as specific as Bangladesh's, yet it still provides that the constitution:

is the supreme law of the Federation and any law passed...which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.<sup>72</sup>

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<sup>70</sup> These countries are: Bangladesh, Pakistan, and Maldives (art. 31).

<sup>71</sup> It should be noted that Pakistan's constitution also tasks a Federal Shariat Court with examining "whether or not any law or provision of law is repugnant to the Injunctions of Islam, as laid down in the Holy Quran and the Sunnah of the Holy Prophet." If such a law is determined to be repugnant to those injunctions, "such law or provision shall, to the extent to which it is held to be so repugnant, case [sic] to have effect on the day on which the decision of the Court takes effect See Art. 203(D)(1) and (D)(3)(b), Pakistan.

<sup>72</sup> Art. 4(1), Malaysia.

## **B. Constitutionally Recognized Rights May be Superseded by Ordinary Law**

Some constitutions do not entrench supremacy for human rights guarantees and as a consequence, in certain situations these guarantees may be superseded by an ordinary act of legislation. As noted above, Afghanistan’s new constitution, on its face, permits ordinary legislation to restrict or trump fundamental individual rights. Other countries with similar provisions include Senegal, Yemen, and Iran.<sup>73</sup>

## **C. Review of Constitutionality May Implicate the Conformity of Legislation with Islam**

In states where Islamic principles, law, or jurisprudence are established in the constitution as a basis or standard of legislation, a judicial or other body empowered to assess the constitutionality of laws may also have the authority to review legislation for its conformity to Islam. One example is the Supreme Constitutional Court of Egypt, which, in addition to enforcement of constitutionally recognized human rights, has been tasked with interpretation of the constitution’s provision that “Islamic jurisprudence is the principal source of legislation.”<sup>74</sup> In the Iraq TAL, “Islam...is to be considered a source of legislation,”<sup>75</sup> and article 44(b)(2) provides the Federal Supreme Court with:

Original and exclusive jurisdiction, on the basis of a complaint from a claimant or a referral from another court, to review claims that a law, regulation, or directive issued by the federal or regional governments, the governorate or municipal administrations, or local administrations is inconsistent with [the Transitional Administrative Law].

Another example is Afghanistan’s new constitution, which establishes that “no law can be contrary to the sacred religion of Islam and the values of [the] Constitution,”<sup>76</sup> and also empowers the Supreme Court to review legislation for conformity to the constitution, provided such a review is made at “the request of the Government and/or the Courts.”<sup>77</sup> As noted above, the Afghan constitution also requires courts to apply Hanafi jurisprudence where the constitution or existing laws are silent.<sup>78</sup>

## **D. Remedies for Violations of Constitutionally Recognized Rights**

Some constitutions provide explicitly for remedies for violations of constitutionally recognized rights, including violations by government officials. In Turkey, “Everyone whose constitutional

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<sup>73</sup> Art. 8, Senegal, Art. 41, Yemen, Art. 13, Iran,

<sup>74</sup> Art. 2, Egypt.

<sup>75</sup> Art. 7(a), Iraq TAL.

<sup>76</sup> Art. 3, Afghanistan.

<sup>77</sup> Art. 121, Afghanistan.

<sup>78</sup> Art. 130, Afghanistan. See Part III(C)(iii) above.

rights and freedoms are violated has the right to request prompt access to the competent authorities” and the “State is obliged to indicate in its transactions, the legal remedies and authorities the persons concerned should apply and their time limits.”<sup>79</sup> Sudan’s constitution sets out a similar provision under article 34:

Every aggrieved person who has exhausted means of grievance and complaint to the executive and administrative organs, shall have the right of access to the Constitutional Court to protect the freedoms, sanctities and rights set out in this Chapter; and the Constitutional Court may according to due process exercise the power to annul any law or order that contravenes the Constitution and restore the right to the aggrieved or compensate him for damage sustained.

Albania, Azerbaijan, and Bangladesh also provide for such remedies in their respective constitutions.<sup>80</sup>

### **E. Prohibitions on Certain Revisions to the Constitution**

Another notable provision found in several constitutions seeks to entrench certain state-defining elements by preventing their modification. In some cases, such as Chad, these protected provisions guarantee the secular nature of the state and the fundamental rights of its citizens. The Chadian constitution specifies that:

No procedure of revision may be started or pursued if it interferes with:

- the integrity of the territory, independence or national unity;
- the republican form of the State, the principle of the division of powers and secularity;
- the freedoms and fundamental rights of the citizen...<sup>81</sup>

In contrast, the prohibition on revisions found in the constitutions of several countries where Islam is the religion of the state protects the Islamic character of the state. According to Iran’s constitution:

The contents of the Articles of the Constitution related to the Islamic character of the political system; the basis of all the rules and regulations according to Islamic criteria; the religious footing; the objectives of the Islamic Republic of Iran...and the...official religion of Iran [Islam]...are unalterable.<sup>82</sup>

Finally, Algeria’s constitution demonstrates that both fundamental rights and Islam as a state religion may be considered essential state characteristics that cannot be subject to revision.

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<sup>79</sup> Art. 40, Turkey.

<sup>80</sup> Art. 4, Albania, art. 60, Azerbaijan, and art. 44, Bangladesh.

<sup>81</sup> Art. 225, Chad.

<sup>82</sup> Art. 177, Iran. See also Morocco, art. 106.

According to the constitutional text, no constitutional revision “may impinge on...Islam, as the religion of the State [or on] fundamental liberties, on the rights of man and citizen.”<sup>83</sup>

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<sup>83</sup> Art. 178(3) and (5), Algeria. See also Qatar, arts. 145-146, Afghanistan, art. 149, and Iraq, art. 3(a). Kuwait’s constitution permits revisions with respect to the role of Islam; however it prevents amendments with respect to “the principles of liberty and equality...[unless such an amendment serves] to increase the guarantees of liberty and equality.” Kuwait, art. 175.

## **VI. Reference to International Agreements and Human Rights Instruments**

### **A. Overview**

Protection of the right to freedom of religion or belief can be enhanced by constitutional references to international human rights instruments, including human rights treaties to which the country is a party. The application of these international human rights protections, if considered part of the domestic law of the state and enforceable through the courts or other means, can supplement other constitutional provisions on human rights.

### **B. Affirmative Obligation or General Reference to International Human Rights Instruments**

The constitutions of predominately Muslim countries address in a variety of ways international human rights documents such as the UDHR and other international agreements to which the state is a party, including the UN Charter and the ICCPR. Some of these constitutions may contain an affirmative obligation to abide by specific international human rights instruments. For example, article 7 of Afghanistan's new constitution declares that the state "shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights." In a similar manner, article 6 of Yemen's constitution provides that the state "shall abide by the United Nations Charter, the Universal Declaration on Human Rights, the Arab League Charter and the universally recognized rules of international law."

States with constitutions that lack any specific affirmative obligation to abide by international human rights instruments may, nonetheless, make reference more generally to "international...treaties and the generally recognized norms of international Law conducive to the promotion of peace and security,"<sup>84</sup> subscribe "to the principles and objectives of the Charter of the United Nations,"<sup>85</sup> or respect "the international charters and treaties...to which it is a party."<sup>86</sup> Other constitutions may allude to such documents in their preambles,<sup>87</sup> whereas others make no reference at all to any international documents or treaties.

### **C. Incorporation of International Treaties into Domestic Law**

Several primarily Muslim countries' constitutions provide that an international agreement duly ratified by the state has the force of law. In some of these countries, in addition to ratification, an

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<sup>84</sup> Art.10, Oman.

<sup>85</sup> Art. 28, Algeria.

<sup>86</sup> Art. 6, Qatar.

<sup>87</sup> See for example, Lebanon, Guinea, and Mali.



enactment by the legislative body is required for an agreement to have the force of law. Examples include Chad and Egypt.<sup>88</sup>

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<sup>88</sup> Chad, art. 222 and Egypt, art. 151

## VII. Appendix

### A. Table I: Relationship Between Religion and the State Constitutional Provisions (By Region)<sup>89</sup>

#### *Middle East/North Africa*

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
Algeria <sup>90</sup>	99%	n/a	Yes	No	<p><b>Article 2</b> Islam is the religion of the State.</p> <p><b>Article 9</b> The [government] institutions forbid: ... – practices contrary to Islamic morals and the values of [the] November [revolution].</p> <p><b>Article 171</b> Next to the President of the Republic, a High Islamic Council is established...especially to: – encourage and promote ijthihad [independent legal interpretation of Islamic law]; – to provide its opinion on the religious rules on what is submitted to it...</p> <p><b>Article 178</b> No constitutional revision may impinge on: ... 2. The democratic character based on plural parties. 3. Islam, as the religion of the State. ... 5. On fundamental liberties, on the rights of man and citizen. ...</p>

<sup>89</sup> All constitution excerpts, unless indicated otherwise, are taken from the most current volume of Albert P. Blaustein and Gisbert H. Flanz, eds., *Constitutions of the Countries of the World* (New York: Oceana Publications, Inc.). All population data are taken from the *Annual Report on International Religious Freedom 2004*, prepared by the U.S. Department of State's Bureau of Democracy, Human Rights and Labor (<http://www.state.gov/g/drl/rls/irf/2004/>) and the U.S. Department of State's Country Background Notes (<http://www.state.gov/r/pa/ei/bgn/>).

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
Bahrain <sup>91</sup>	98%	Islamic	Yes	Yes	<p><b>Article 1</b> a. The Kingdom of Bahrain is [a] fully sovereign, independent Islamic Arab State...</p> <p><b>Article 2</b> The religion of the State is Islam. The Islamic Shari'a is a principal source for legislation...</p> <p><b>Article 5</b> b. The State guarantees reconciling the duties of women towards the family with their work in society, and their equality with men in political, social, cultural, and economic spheres without breaching the provisions of Islamic canon law (Shari'a). d. Inheritance is a guaranteed right governed by the Islamic Shari'a.</p> <p><b>Article 120</b> c. It is not permissible to propose an amendment to Article 2 of this Constitution, and it is not permissible under any circumstances to propose the amendment of...the principles of freedom and equality established in this Constitution.</p>
Egypt <sup>92</sup>	90%	n/a	Yes	Yes	<p><b>Article 2</b> Islam is the religion of the State...Islamic jurisprudence is the principal source of legislation.</p>
Iran <sup>93</sup>	99%	Islamic	Yes	Yes	<p><b>Article 1</b> The form of government of Iran is that of an Islamic Republic, endorsed by the people of Iran on the basis of their longstanding belief in the sovereignty of truth and Qur'anic justice...</p> <p><b>Article 2</b> The Islamic Republic is a system based on belief in: 1. the One God (as stated in the phrase "There is no god except Allah"),</p>

<sup>90</sup> Constitution of Algeria, 1996 (as amended to 2002).

<sup>91</sup> Constitution of the Kingdom of Bahrain, as promulgated by King Hamad bin Isa Al Khalifa on February 14, 2002.

<sup>92</sup> Constitution of the Arab Republic of Egypt, 1971 (as amended to 1980).

<sup>93</sup> Constitution of the Islamic Republic of Iran, 1979 (as amended to 1989). The Iranian Constitution contains a lengthy preamble and numerous additional provisions touching on the relationship between Islam and the state.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
					<p>His exclusive sovereignty and the right to legislate, and the necessity of submission to His commands;  2. Divine revelation and its fundamental role in setting forth the laws...</p> <p><b>Article 4</b>  All civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the <i>fuqahā'</i> of the Guardian Council are judges in this matter.</p> <p><b>Article 12</b>  The official religion of Iran is Islam and the Twelver Ja'farī school [in <i>uṣūl al-Dīn</i> and <i>fiqh</i>], and this principle will remain eternally immutable. Other Islamic schools, including the Ḥanafī, Shāfī'ī, Mālikī, Ḥanbalī, and Zaydī, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools of <i>fiqh</i> constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school of <i>fiqh</i>, without infringing upon the rights of the followers of other schools.</p> <p><b>Article 170</b>  Judges of courts are obliged to refrain from executing statutes and regulations of the government that are in conflict with the laws or the norms of Islam...</p> <p><b>Article 177</b>  The contents of the Articles of the Constitution related to the Islamic character of the political system; the basis of all the rules and regulations according to Islamic criteria; the religious footing; the objectives of the Islamic Republic of Iran; the democratic character of the government; the <i>wilāyat al-'amr</i>; the Imamate of Ummah... [and</p>

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
					the] official religion of Iran [Islam] and the school [Twelver Ja'fari] are unalterable.
Iraq 1925 <sup>94</sup>	n/a	n/a	Yes	In certain matters.	<p><b>Article 13</b> Islam is the official religion of the State...</p> <p><b>Article 76</b> The Shara [Sharia] courts alone shall be competent to deal with actions relating to the personal status of Moslems and actions relating to the administration of Waqf foundations.</p>
Iraq 2004 (TAL) <sup>95</sup>	97%	n/a	Yes	Yes	<p><b>Article 3 [Supreme Law]</b> (A) This Law is the Supreme Law of the land and shall be binding in all parts of Iraq without exception... Likewise, no amendment may be made that could abridge in any way the rights of the Iraqi people cited in Chapter Two... reduce the powers of the regions or governorates; or affect Islam, or any other religions or sects and their rites.</p> <p><b>Article 7 [State Religion, Freedom of Religion, Arab Nation]</b> (A) Islam is the official religion of the State and is to be considered a source of legislation. No law that contradicts the universally agreed tenets of Islam, the principles of democracy, or the rights cited in Chapter Two of this Law may be enacted during the transitional period. This Law respects the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice.</p>
Jordan <sup>96</sup>	95%	n/a	Yes	In certain matters.	<p><b>Article 2</b> Islam shall be the religion of the State...</p> <p><b>Article 104</b> The Religious Courts shall be divided into:— (i) The Sharia Courts (ii) The tribunals of other Religious Communities.</p>

<sup>94</sup> Constitution of the Kingdom of Iraq, 1925. British and Foreign State Papers, 1926, Part I, Vol. CXXIII, London 1931, 383-402 (<http://www.geocities.com/dagtho/iraqconst19250321.html>) or via the constitution finder project at the T.C. Williams School of Law, University of Richmond (<http://confinder.richmond.edu/>).

<sup>95</sup> Law of Administration for the State of Iraq for the Transitional Period (TAL), March 8, 2004 (<http://www.cpa-iraq.org/government/TAL.html>).

<sup>96</sup> Constitution of the Hashemite Kingdom of Jordan, 1952 (as amended to 1984).

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
					<p><b>Article 105</b> The Sharia Courts shall have exclusive jurisdiction in the following matters in accordance with its special laws: (i) Matters of personal status of Moslems (ii) Cases concerning blood money (<i>diyeh</i>) where the two parties are Moslems or where one of the parties is not a Moslem and the two parties consent to the jurisdiction of the Sharia Courts.</p> <p><b>Article 106</b> The Sharia Courts shall apply in its proceedings the provisions of the Sharia Law.</p> <p><b>Article 108</b> The tribunals of Religious Communities are the tribunals of the non-moslem [sic] religious tribunals which were or will be recognized by the Government as being established in the Hashemite Kingdom of Jordan.</p>
Kuwait <sup>97</sup>	85% of residents	n/a	Yes	Yes	<p><b>Article 2</b> The religion of the State is Islam, and the Islamic Sharia shall be a main source of legislation.</p> <p><b>Article 18</b> ... Inheritance is a right governed by the Islamic Sharia.</p>
Lebanon <sup>98</sup>	70%	n/a	No	No	n/a
Libya	97%	n/a	Yes	Yes	<p><b>Constitutional Proclamation, 11 December 1969</b><sup>99</sup></p> <p><b>Article 2</b> Islam is the religion of the State and Arabic is its official language. The State protects religious freedom in accordance with established customs.</p> <p><b>Article 8</b> ...Inheritance is a right which will be governed by the Islamic Shari'a.</p>

<sup>97</sup> Constitution of the State of Kuwait, 1962.

<sup>98</sup> The Lebanese Constitution, promulgated on May 23, 1926 (as amended to 1995).

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
Morocco <sup>100</sup>	99%	n/a	Yes	No	<p><b>Article 6</b> Islam is the religion of the State which guarantees to all freedom of worship.</p> <p><b>Article 19</b> The King...ensures the observance of Islam and the Constitution. He is the protector of the rights and liberties of the citizen, social groups and collectivities.</p> <p><b>Article 106</b> The monarchic form of the State as well as the provisions relating to the Islamic religion cannot be the object of a constitutional revision.</p>
Oman <sup>101</sup>	99% of citizens	Islamic	Yes	Yes	<p><b>Article 1</b> The Sultanate of Oman is an Arab, Islamic, Independent State with full sovereignty and Muscat is its Capital.</p> <p><b>Article 2</b> The State's religion is Islam and Islamic Sharia is the basis for legislation.</p> <p><b>Article 10</b> The Political Principles: ... Laying suitable foundations for consolidating the pillars of genuine shura emanating from the country's heritage, values and its Islamic Sharia, taking pride in its history while adopting the useful contemporary methods and tools.</p> <p><b>Article 11</b> The Economic Principles: ...Inheritance is a right governed by Islamic Sharia.</p>

<sup>99</sup> Libya has not had a constitution since the overthrow of King Idris in 1969. The Revolutionary Command Council published its Constitutional Proclamation on December 11, 1969. The subsequent Declaration on the Establishment of the Authority of the People (1977) noted at article 2 that "The Holy Kuran is the constitution of the Socialist People's Libyan Arab Jamahiriya."

<sup>100</sup> Revised Constitution of Morocco, 1996. Adopted by referendum September 13, 1996 and promulgated October 7, 1996.

<sup>101</sup> Basic Statute of the State of Oman, 1996.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
Qatar <sup>102</sup>	99% of citizens	n/a	Yes	Yes	<p><b>Article 1</b> Qatar is an Arab State, sovereign and independent. Its religion is Islam, and the Islamic Law is the main source of its legislations. Its system is democratic, and its official language is the Arabic language...</p> <p><b>Article 51</b> The right of inheritance is inviolable and is governed by the Islamic Law.</p>
Saudi Arabia	99% of citizens	Islamic	Yes	Yes	<p><b>The Basic System of the Consultative Council (Decree A/90), 1992</b><sup>103</sup></p> <p><b>Article 1</b> The Kingdom of Saudi Arabia is an Arab and Islamic sovereign state. Its religion is Islam, and its constitution, the holy Quran and the prophet's Sunnah...</p> <p><b>Article 6</b> The citizens will take allegiance before the monarch in line with the holy Quran and the prophet's Sunnah.</p> <p><b>Article 7</b> The rule in the kingdom depends on the holy Quran and the prophet's Sunnah.</p> <p><b>Article 8</b> The rule in the kingdom is based on justice, consultations and equality in accordance with the Islamic Sharia.</p> <p><b>Article 23</b> The state protects the Islamic creed, carries out its Sharia and undertakes its duty towards the Islamic call.</p> <p><b>Article 46</b> The judicial authority is an independent organ and nobody has authority</p>

<sup>102</sup> Permanent Constitution of the State of Qatar, adopted by referendum on April 29, 2003.

<sup>103</sup> Saudi Arabia has no written constitution. After releasing the decree cited here, King Fahd Ibn Abdulaziz affirmed that the announcement of the basic system of government was only an authentication of regulations already emanating from sharia.



Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
					<p>over the judges except the authority of the Islamic sharia.</p> <p><b>Article 48</b> The system of judges which is applied to all cases presented before it is, sharia rules according to the teachings of the holy quran, the sunnah, and the regulations set by the ruler provided that they do not contradict the holy Quran and sunnah.</p> <p><b>Article 55</b> The king will rule the nation according to the rulings of Islam and supervise the application of sharia (Islamic laws), the state's general policy and the protection and defense of the country.</p>
Syria <sup>104</sup>	90%	n/a	No	Yes	<p><b>Article 3</b> (2) Islamic jurisprudence is a main source of legislation.</p>
Tunisia <sup>105</sup>	98%	n/a	Yes	No	<p><b>Article 1</b> Tunisia is a free State, independent and sovereign; its religion is... Islam, its language is Arabic and its regime is the Republic.</p>
U.A.E. <sup>106</sup>	96%	n/a	Yes	Yes	<p><b>Article 7</b> Islam shall be the official religion of the Union. The Islamic Shari'ah shall be a principal source or legislation in the Union...</p>
Yemen <sup>107</sup>	100%	Islamic	Yes	Yes	<p><b>Article 1</b> The Republic of Yemen is an independent, sovereign, Arab Islamic State which is inseparable and no part of it shall be ceded. The Yemeni people is part of the Arab and Islamic nation</p> <p><b>Article 2</b> Islam is the religion of the State and Arabic is its official language.</p> <p><b>Article 3</b> The Islamic Sharia'a (jurisprudence) shall be the source of all legislations.</p>

<sup>104</sup> Constitution of the Syrian Arab Republic, 1973 (as amended to 2000).

<sup>105</sup> Constitution of the Tunisian Republic, 1959 (as amended to 1993).

<sup>106</sup> The 1971 Provisional Constitution of the United Arab Emirates was made permanent under Constitutional Amendment No. (1) of 1996.

<sup>107</sup> Constitution of the Republic of Yemen, 1994.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Law or Legislation?	Constitutional Formulation
					<p><b>Article 23</b> The right to inherit according to Islamic Sharia'a shall hereby be guaranteed by law.</p> <p><b>Article 46</b> ...Crime and punishment shall be determined by the provisions of Sharia'a and law...</p> <p><b>Article 59</b> The defence of religion and the country is a sacred duty and military service is an honour...</p>

*South Asia*

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Afghanistan <sup>108</sup>	99%	Islamic	Yes	No law can be contrary to Islam.	<p><b>Article 1</b> Afghanistan is an Islamic Republic, independent, unitary and indivisible State.</p> <p><b>Article 2</b> The religion of Afghanistan is the sacred religion of Islam. Followers of other religions are free to perform their religious rites within the limits of the provisions of law.</p> <p><b>Article 3</b> In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution.</p> <p><b>Article 130</b> When there is no provision in the Constitution or the laws with respect to a case under consideration, the court shall follow the provisions of the Hanafi jurisprudence within the provisions set forth in this Constitution to render a decision that secures justice in the best possible way.</p> <p><b>Article 131</b> Courts shall apply Shia jurisprudence in cases dealing with personal matters involving the followers of the Shia Sect in accordance with the provisions of the law.</p> <p>In other cases as well, where no provisions of this Constitution and other laws apply and both sides of the case are followers of the Shia Sect, courts shall resolve the case according to laws of this Sect.</p> <p><b>Article 149</b> The provisions of adherence to the provisions of the sacred religion of Islam and the republican regime cannot be amended.</p>
Bangladesh <sup>109</sup>	88%	n/a	Yes	No	<p><b>Article 2</b> The state religion of the Republic is Islam, but other religions may be</p>

<sup>108</sup> Constitution of the Islamic Republic of Afghanistan, 2003.

<sup>109</sup> Constitution of the People's Republic of Bangladesh 1972 (as amended to 1996).

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<p>practiced in peace and harmony in the Republic.</p> <p><b>Article 8</b>  (1A) Absolute trust and faith in the Almighty Allah shall be the basis of all actions.  (2) The principles set out in this Part shall be fundamental to the governance of Bangladesh, shall be applied by the State in the making of laws, shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh, and shall form the basis of the work of the State and of its citizens, but shall not be judicially enforceable.</p>
Maldives <sup>110</sup>	100%	Islamic	Yes	Yes	<p><b>Article 1</b>  The Maldives shall be a sovereign, independent, democratic republic based on the principles of Islam...</p> <p><b>Article 7</b>  The religion of the State of the Maldives shall be Islam.</p> <p><b>Article 16</b>  (2) Every person who is charged with an offence shall have the right to defend himself in accordance with Shari'ah...</p> <p><b>Article 23</b>  (1) Property of persons shall be inviolable. No person shall be deprived of his property except as provided by law or Shari'ah.</p> <p><b>Article 38</b>  The President shall be the supreme authority to propagate the tenets of Islam in the Maldives.<sup>111</sup></p> <p><b>Article 43</b>  The powers of the President shall be exercised subject to Shari'ah and the Constitution. Nothing shall be done in violation of Shari'ah or the Constitution.</p>

<sup>110</sup> Constitution of the Republic of Maldives, 1998.

<sup>111</sup> According to Article 156, "Propagation of the tenets of Islam means the administration of the faith, beliefs and the doctrines of Islam and the facilitation of the practice of the same."

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<p><b>Article 156</b> In this Constitution the word ‘law’ also includes the norms and provisions of Shari’ah established by the Noble Quran and the traditions of the Noble Prophet, and the rules derived therefrom.</p>
Pakistan <sup>112</sup>	96%	Islamic	Yes	Yes	<p><b>Article 1</b> (1) Pakistan shall be [a] Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.</p> <p><b>Article 2</b> Islam shall be the State religion of Pakistan</p> <p><b>Article 31</b> (1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.</p> <p>(2) The State shall endeavour, as respects the Muslims of Pakistan,— (a) to make the teaching of the Holy Quran and Islamiat compulsory...and to secure correct and exact printing and publishing of the Holy Quran; (b) to promote unity and the observance of the Islamic moral standards; ...</p> <p><b>Article 203(C)</b> (1) There shall be constituted for the purposes of this Chapter a court to be called the Federal Shariat Court. (2) The Court shall consist of not more than eight Muslim [Judges], including the [Chief Justice], to be appointed by the President.</p> <p><b>Article 203(D)</b> (1) The Court may...examine and decided the question whether or not any law...is repugnant to the Injunctions of Islam, as laid down in the</p>

<sup>112</sup> Constitution of the Islamic Republic of Pakistan, 1973 (as amended to 2002).

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<p>Holy Quran and the Sunnah of the Holy Prophet...</p> <p>...</p> <p>(3) If any law or provision of law is held by the Court to be repugnant to the injunctions of Islam,—</p> <p>(a) the President...or the Concurrent Legislative List, or the Governor...shall take steps to amend the law so as to bring such law or provision into conformity with the Injunctions of Islam; and</p> <p>(b) such law or provision shall, to the extent to which it is held to be so repugnant, case [sic] to have effect on the day on which the decision of the Court takes effect.</p> <p><b>Article 227</b> All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions</p> <p>...</p> <p>(3) Nothing in this Part shall affect the personal laws of non-Muslim citizens or their status as citizens.</p> <p><b>Article 228</b> (1) There shall be, constituted...a Council of Islamic Ideology, in this part referred to as the Islamic Council. (2) The Islamic Council shall consist of such members...as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the Holy Quran and Sunnah, or understanding of the economic, political, legal or administrative problems of Pakistan.</p> <p><b>Article 229</b> The President or the Governor of a Province may, or if two-fifths of its total membership so requires, a House or a Provincial Assembly shall, refer to the Islamic council for advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam.</p> <p><b>Article 230</b> (1) The functions of the Islamic Council shall be—</p>

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<p>(a) to make recommendations to [Majlis-e-Shoora (Parliament)] and the Provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Holy Quran and Sunnah;</p> <p>(b) to advice [sic] a House, a Provincial Assembly, the President or a Governor on any question referred to the Council as to whether a proposed law is or is not repugnant to the Injunctions of Islam;</p> <p>(c) to make recommendations as to the measures for bringing existing laws into conformity with the Injunctions of Islam and the stages by which such measures should be brought into effect; and</p> <p>(d) to compile in a suitable form, for the guidance of [the Majlis-e-Shoora] and the Provincial Assemblies, such Injunctions of Islam as can be given legislative effect.</p>

*East Asia*

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Brunei <sup>113</sup>	67%	Islamic <sup>114</sup>	Yes	No	<p><b>Article 3</b>                      (1) The religion of Brunei Darussalam shall be the Muslim Religion according the Shafeite sect of that religion. Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam.</p> <p>(2) The Head of the religion of Brunei Darussalam shall be His Majesty the Sultan and Yang Di-Pertuan [“Supreme Ruler”].</p>
Indonesia <sup>115</sup>	87%	n/a	No	No	<p><b>Article 29</b>                      (1) The State shall be based upon the belief in the One and Only God.</p>
Malaysia <sup>116</sup>	60.4%	n/a	Yes	In certain matters.	<p><b>Article 3</b>                      (1) Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.                      ...                      (4) Nothing in this Article derogates from any other provision of this Constitution.</p> <p><b>NINTH SCHEDULE</b>                      Legislative Lists<sup>117</sup>                      List II—State List                      1. Except with respect to the Federal Territories of Kuala Lumpur and Labuan, Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption,</p>

<sup>113</sup> Constitution of Brunei Darussalam, 1959 (as revised to 1984). Although some provisions were suspended under a State of Emergency in December 1962 and others since independence on January 1, 1984, the government maintains that the constitution remains the supreme law.

<sup>114</sup> Brunei defines itself as an Islamic state that “honors everything which embodies Islam in a moderate way.” The National Philosophy of *Melayu Islam Beraja* (MIB), or Malay Islamic Monarchy, is the nation’s “formal guiding light” and represents a blend of Malay culture, the teaching of Islamic laws and values and the monarchy system. According to Brunei’s government, since Islam is tolerant of all religions, “the MIB philosophy cannot be viewed as a force which stifles the practice of other religions.” It is expected that MIB “be esteemed and practiced by all.” (<http://www.brunei.gov.bn/government/mib.htm>).

<sup>115</sup> Constitution of the Islamic Republic of Pakistan, 1973 (as amended to 2002).

<sup>116</sup> Constitution of Malaysia, 1957 (as amended to 1994).

<sup>117</sup> This section sets out the division of legislative powers between the federal and state governments in Malaysia. Sharia courts are regulated on the state level.



				<p>legitimacy, guardianship, gifts, partitions and non-charitable trusts; Wakafs and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Islamic religious and charitable endowments, institutions, trusts, charities and charitable institutions operating wholly within the State; Malay customs; Zakat, Fitrah and Baitulmal or similar Islamic religious revenue; mosques or any Islamic public places of worship, creation and punishment of offences by persons professing the religion of Islam against precepts of that religion, except in regard to matters included in the Federal List; the constitution, organisation and procedure of Syariah [sharia] courts, which shall have jurisdiction only over persons professing the religion of Islam and in respect only of any of the matters included in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by federal law, the control of propagating doctrines and beliefs among persons professing the religion of Islam; the determination of matters of Islamic law and doctrine and Malay custom.</p>
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## Africa

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Burkina Faso <sup>118</sup>	60%	Secular	No	No	<b>Article 31</b> Burkina Faso is a democratic, unitary and secular State.
Chad <sup>119</sup>	54%	Secular	No	No	<b>Article 1</b> Chad is a Republic, sovereign, independent, secular, social, one and indivisible, founded on the principles of democracy, the rule [règne] of law and justice. The separation between State and religions is affirmed.
Comoros <sup>120</sup>	99%	n/a	No	No	<b>Preamble</b> The Comorian people solemnly affirm their will to: draw from Islam the permanent inspiration for the principles and rules that shall govern the union... This preamble forms an integral part of the Constitution.  <b>Article 9</b> The Union will have exclusive jurisdiction in the following matters: religion, nationality, currency, foreign relations, external defense, and national symbols.  <b>Article 36</b> ...the Council of the Ulemas and the Economic and Social Council shall assist as needed, the government of the Union...in formulating decisions that affect the religious, economic and social life of the country.
Djibouti <sup>121</sup>	99%	n/a	No	No	<b>Article 1</b> The State of Djibouti shall be a democratic sovereign Republic, one and indivisible. It shall ensure the equality of all citizens before the law, without distinction as to origin, race, sex or religion. It shall respect all beliefs.

<sup>118</sup> Constitution of Burkina Faso, 1991 (as amended to 1997).

<sup>119</sup> Constitution of the Republic of Chad, 1996.

<sup>120</sup> Constitution of the Union of Comoros, 2001, adopted by referendum. Translated from the French by USCIRF. Original French version available at <http://www.accpuf.org/com/constit.htm> and <http://portail.droit.francophonie.org/doc/html/km/con/2001dfkmco1.html>. According to the State Department, as of March 2004 the National Assembly is tasked with finalizing a new constitution for the Union. A new government was appointed in July 2004.

<sup>121</sup> Constitution of the Republic of Djibouti, 1992.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Gambia <sup>122</sup>	95%	n/a	No	In certain matters	<p><b>Article 7</b> In addition to this Constitution, the laws of The Gambia consist of— ... (f) the Sharia as regards matters of marriage, divorce and inheritance among members of the communities to which it applies.</p> <p><b>Article 100</b> (2) The National Assembly shall have no power to pass a Bill— ... (b) to establish any religion as a state religion; ...</p> <p><b>Article 137</b> (1) A Cadi Court shall be established in such places in The Gambia as the Chief Justice shall determine. ... (4) The Cadi Court shall only have jurisdiction to apply the Sharia in matters of marriage, divorce and inheritance where the parties or other persons interested are Muslims.</p>
Guinea <sup>123</sup>	85%	Secular	No	No	<p><b>Article 1</b> Guinea is a unitary, indivisible, secular, democratic and social Republic. It shall assure equality before the law for all citizens, without distinction of origin, race, ethnicity, sex, religion and opinion. It shall respect all beliefs.</p>
Mali <sup>124</sup>	90%	Secular	No	No	<p><b>Article 25</b> Mali is an independent, sovereign, indivisible, democratic, secular and social Republic. Its principle is government of the People, by the People and for the People.</p>
Mauritania <sup>125</sup>	100%	Islamic	Yes	No	<p><b>Article 1</b> Mauritania is an indivisible, democratic and social Islamic Republic.</p> <p><b>Article 5</b> Islam shall be the religion of the people and of the State.</p>

<sup>122</sup> Constitution of the Gambia, 1996.

<sup>123</sup> Fundamental Law of the Second Republic of Guinea, 1990

<sup>124</sup> Decree 92-073 of 25 February 1992 Concerning Promulgation of the Constitution.

<sup>125</sup> Constitution of the Islamic Republic of Mauritania, 1991.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<p><b>Article 94</b> There shall be instituted next to the President of the Republic a High Islamic Council composed of five (5) members. ... It shall formulate opinions concerning the questions about which it has been consulted by the President of the Republic.</p>
Niger <sup>126</sup>	90%	n/a	No	No	<p><b>Article 4</b> The Republic of Niger is one and indivisible, democratic and social. Its fundamental principles are:</p> <ul style="list-style-type: none"> <li>• ...</li> <li>• the separation of the State and of religion.</li> </ul> <p><b>Article 8</b> The Republic of Niger is a State of Law (État de droit). The Republic shall assure to all the equality before the law without distinction of sex, of social, ethnic or religious origin. The Republic shall respect and protect all faiths. No religion [nor] belief shall assume... political power nor interfere in the affairs of the State.</p> <p><b>Article 136</b> ... The republican form of the State, multipartism, the principle of separation of State and religion and the provisions of articles 36 and 141 of this Constitution cannot be the object of an amendment.</p>
Senegal <sup>127</sup>	94%	Secular	No	No	<p><b>Article 1</b> The Republic of Senegal is secular, democratic, and social. It assures the equality before the law of all citizens, without distinction of origin, race, sex (or) religion. It respects all faiths.</p>
Sierra Leone <sup>128</sup>	60%	n/a	No	No	<p><b>Article 5</b> (1) The Republic of Sierra Leone shall be a State based on the principles of Freedom, Democracy and Justice.</p>

<sup>126</sup> Constitution of the Republic of Niger, 1999.

<sup>127</sup> Constitution of the Republic of Senegal, 2001.

<sup>128</sup> Constitution of Sierra Leone, 1991.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<b>Article 6</b> (2) ...the State shall promote national integration and unity and discourage discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties.
Somalia	99%				A new administration for Somalia was recently established but the country remains without a recognized constitution. <sup>129</sup>
Sudan <sup>130</sup>	65-75%	n/a	No	Yes	<b>Article 1</b> ...Islam is the religion of the majority of the population. Christianity and customary creeds have considerable followers.  <b>Article 4</b> Supremacy in the State is to God the creator of human beings, and sovereignty is to the vicegerent people of the Sudan who practice it as worship of God, bearing the trust, building up the country and spreading justice, freedom and public consultation. The Constitution and the law shall regulate the same.  <b>Article 18</b> Those in service in the State and public life shall envisage the dedication thereof for the worship of God, wherein Muslims stick to the scripture and tradition, and all shall maintain religious motivation and give due regard to such spirit in plans, laws, policies and official business in the political economic, social and cultural fields in order to prompt public life towards its objectives, and adjust them towards justice and up-rightness to be directed towards the grace of God in The Hereafter.  <b>Article 65</b> Islamic law and the consensus of the nation, by referendum, Constitution and custom shall be the sources of legislation; and no legislation in

<sup>129</sup> The Transitional National Government (TNG), established in August 2000, had a three year mandate to draft a new constitution and hold elections. The TNG failed to accomplish this goal, but the process is ongoing. In October 2004, Abdullahi Yusuf Ahmed was sworn in as Somalia's new president in Kenya. However, security concerns have kept Yusuf and the new parliament in Nairobi. Other governing bodies continue to control various cities and regions of Somalia, including Somaliland, Puntland, and traditional clan and faction strongholds. The negotiations that allowed a new administration to be established for Somalia have been conducted under the auspices of the Inter Governmental Authority on Development, a regional body comprising Kenya, Uganda, Sudan, Somalia, Ethiopia, Eritrea, and Djibouti.

<sup>130</sup> Constitution of the Republic of the Sudan, 1998.

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
					<p>contravention with these fundamentals shall be made; however, the legislation shall be guided by the nation's public opinion, the learned opinion of scholars and thinkers, and then by the decision of those in charge of public affairs.</p> <p><b>Article 139</b>  (3) [No constitutional amendment] shall...come into force where it amends the provisions of the basic fundamentals, save after the same is also passed by the people in a referendum and signed by the President of the Republic. The basic provisions and fundamentals are:—</p> <p>(a) Islamic law and the legislative consensus of the people by the referendum, the Constitution or custom are the prevalent sources of law;</p> <p>(b) the human being has the freedom of creed and worship, and the citizen has the freedom of expression and the organization of political association, in accordance with the provisions set out in this Constitution;</p> <p>...</p>

*Europe/Eurasia*

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Albania <sup>131</sup>	65-70%	n/a	No	No	<p><b>Article 3</b> The independence of the State and the integrity of its territory, dignity of the individual, human rights and freedoms, social justice, constitutional order, pluralism, national identity and inheritance, religious coexistence, as well as coexistence with, and understanding of Albanians for, minorities are the bases of this State, which has the duty of respecting and protecting them.</p> <p><b>Article 10</b> 1. In the Republic of Albania there is no official religion. 2. The State is neutral in questions of belief and conscience, and also, it guarantees the freedom of their expression in public life. 3. The State recognizes the equality of religious communities. 4. The State and the religious communities mutually respect the independence of one another and work together for the good of each of them and for all. 5. Relations between the State and religious communities are regulated on the basis of agreements entered into between their representatives and the Council of Ministers. These agreements are ratified by the Assembly. 6. Religious communities are juridical persons. They have independence in the administration of their properties according to their principles, rules and canons, to the extent that interests of third parties are not infringed.</p>
Azerbaijan <sup>132</sup>	96%	Secular	No	No	<p><b>Article 7</b> I. The Azerbaijan State is a democratic, law-governed, secular, unitary republic.</p> <p><b>Article 18</b> I. In the Azerbaijan Republic religion is separated from the State. All religions are equal by law. II. The spread and propaganda of religions which humiliate human dignity and contradict the principles of humanity are banned. III. The State education system is of secular character.</p>

<sup>131</sup> Constitution of Albania, 1998.

<sup>132</sup> Constitution of the Azerbaijan Republic, 1995 (as amended to 2002).

Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Kyrgyzstan <sup>133</sup>	80%	Secular	No	No	<p><b>Article 1</b> 1. The Kyrgyz Republic (Kyrgyzstan) is a sovereign, unitary, democratic republic created on the basis of a law-governed secular state.</p> <p><b>Article 8</b> 3. Religion and all cults are separate from the state. 4. In the Kyrgyz Republic the following is not permitted: ...  <ul style="list-style-type: none"> <li>• Organization of political parties on religious and ethnic grounds. Religious organizations must not pursue political aims and tasks</li> <li>• Interference by members of religious organizations and cults with the activity of state organs;</li> <li>• Activity of foreign political parties, public associations, religious and other organizations detrimental to the constitutional system, state and national security.</li> </ul> </p>
Tajikistan <sup>134</sup>	95%	Secular	No	No	<p><b>Article 1</b> The Republic of Tajikistan is a sovereign, democratic, law-governed, secular, and unitary State.</p> <p><b>Article 8:</b> ... No single ideology of a party, social association, religious organization, movement, or group may be recognized as the State [ideology]. ... Religious organizations are separate from the State and may not interfere with State affairs.</p> <p><b>Article 100</b> The republican form of government, the territorial integrity, the democratic, law-governed, secular, and social nature of the State are unchangeable.</p>

<sup>133</sup> Constitution of the Kyrgyz Republic, 1993 (as amended to 2003).

<sup>134</sup> Constitution of the Republic of Tajikistan, 1994 (as amended to 2003).



Country	% Muslim	Islamic or Secular State?	Islam State Religion?	Islamic Law Source of Legislation?	Constitutional Formulation
Turkey <sup>135</sup>	99%	Secular	No	No	<p><b>Article 2</b> The Republic of Turkey is a democratic, laic and social state governed by the rule of law...</p> <p><b>Article 174</b> No provision of the Constitution can be construed or interpreted as rendering unconstitutional the Reform Laws...which aim...to safeguard the laic character of the Republic, and which were in force on the date of the adoption by referendum of the Constitution of Turkey.</p>
Turkmenistan <sup>136</sup>	89%	Secular	No	No	<p><b>Article 1</b> Turkmenistan is a democratic, law-governed and secular State, in which the State administration is implemented in the form of a presidential republic.</p>
Uzbekistan <sup>137</sup>	88%	n/a	No	No	<p><b>Article 61</b> Religious organizations and associations shall be separated from the state and equal before law. The state shall not interfere with the activity of religious associations.</p>

<sup>135</sup> Constitution of the Republic of Turkey, 1982 (as amended to 2002).

<sup>136</sup> Constitution of Turkmenistan, 1992 (as amended to 2003).

<sup>137</sup> Constitution of Uzbekistan, 1992.

**B. Table II: The Right to Freedom of Religion or Belief  
Constitutional Provisions (By Region)**

*Middle East/North Africa*

Country	Islam State Religion?	ICCPR Ratification Status <sup>138</sup>	Constitutional Provisions for the Right to Freedom of Religion or Belief
Algeria	Yes	Sep. 12, 1989	<b>Article 36</b> The freedom of conscience and the freedom of opinion are inviolable.
Bahrain	Yes	Not a State Party	<b>Article 22</b> Freedom of conscience is absolute. The State guarantees the inviolability of worship, and the freedom to perform religious rites and hold religious parades and meetings in accordance with the customs observed in the country.
Egypt	Yes	Jan. 14, 1982 <sup>139</sup>	<b>Article 46</b> The State shall guarantee the freedom of belief and the freedom of practice of religious rites.
Iran	Yes	Jun. 24, 1975	<b>Article 12</b> The official religion of Iran is Islam and the Twelver Ja'fari school [in uṣūl al-Dīn and fiqh], and this principle will remain eternally immutable. Other Islamic schools, including the Ḥanafī, Shāfi'ī, Mālikī, Ḥanbalī, and Zaydī, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools of fiqh constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school of fiqh, without infringing upon the rights of the followers of other schools.  <b>Article 13</b> Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education.  <b>Article 14</b> In accordance with the sacred verse ("God does not forbid you to deal kindly and justly with those who

<sup>138</sup> ICCPR. Ratification dates according to the United Nations Treaty Collection Status of Multilateral Treaties Database, last updated October 22, 2004 (<http://untreaty.un.org/English/treaty.asp>).

<sup>139</sup> Egypt attached the following declaration: "... Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify [sic] it ..."

Country	Islam State Religion?	ICCPR Ratification Status <sup>138</sup>	Constitutional Provisions for the Right to Freedom of Religion or Belief
			<p>have not fought against you because of your religion and who have not expelled you from your homes” [60:8]), the government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran.</p> <p><b>Article 23</b> The investigation of individuals’ beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.</p> <p><b>Article 26</b> The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or be compelled to participate in them.</p>
Iraq 1925	Yes	Jan. 25, 1971	<p><b>Article 13.</b> Islam is the official religion of the State. Freedom to practice the rites of the different sects of that religion, as observed in Iraq, is guaranteed. Complete freedom of conscience and freedom to practice the various forms of worship, in conformity with accepted customs, is guaranteed to all inhabitants of the country provided that such forms of worship do not conflict with the maintenance of order and discipline or public morality.</p> <p><b>Article 16</b> The various communities shall have the right of establishing and maintaining schools for the instruction of their members in their own tongues, provided that such instruction is carried out in conformity with such general programmes as may be prescribed by law.</p>
Iraq 2004 (TAL)	Yes	Jan. 25, 1971	<p><b>Article 7</b> (A) Islam is the official religion of the State... This Law respects the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice.</p> <p><b>Article 13</b> (F) Each Iraqi has the right to freedom of thought, conscience, and religious belief and practice. Coercion in such matters shall be prohibited.</p>

Country	Islam State Religion?	ICCPR Ratification Status <sup>138</sup>	Constitutional Provisions for the Right to Freedom of Religion or Belief
			<b>Article 15</b> (C) No one may be unlawfully arrested or detained, and no one may be detained by reason of political or religious beliefs.
Jordan	Yes	May 28, 1975	<b>Article 14</b> The State shall safeguard the free exercise of all forms of worship and religious rites in accordance with the customs observed in the Kingdom, unless such exercise is inconsistent with public order or decorum.  <b>Article 19</b> Congregations shall have the right to establish and maintain their own schools for the education of their own members provided that they will comply with the general provisions of the law and submit to the control of government in matters relating to their curricula and tendency.
Kuwait	Yes	May 21, 1996 <sup>140</sup>	<b>Article 35</b> Freedom of belief is absolute. The State protects the freedom of practicing religion in accordance with established customs, provided that it does not conflict with public policy or morals.
Lebanon	No	Nov. 3, 1972	<b>Article 9</b> Freedom of conscience is absolute. In assuming the obligations of glorifying God, the Most High, the State respects all religions and creeds and safeguards the freedom of exercising the religious rites under its protection, without disturbing the public order. It also guarantees the respect of the system of personal status and religious interests of the people, regardless of their different creeds.  <b>Article 10</b> Education is free so long as it does not disturb the public order, does not violate the morals, and does not touch the dignity of any religion or creed. The rights of communities to establish their own private schools cannot be violated, provided that they comply with the general requirements laid down by the State with respect to public education.
Libya	Yes	May 15, 1970	<b>Article 2</b> ...The State protects religious freedom in accordance with established customs.
Morocco	Yes	May 3, 1979	<b>Article 6</b> Islam is the religion of the State which guarantees to all freedom of worship.
Oman	Yes	Not a State Party	<b>Article 28</b> The freedom to practice religious rites according to the recognized customs is guaranteed, provided it

<sup>140</sup> Kuwait attached the following interpretive declaration regarding article 23: “The Government of Kuwait declares that the matters addressed by article 23 are governed by personal-status law, which is based on Islamic law. Where the provisions of that article conflict with Kuwaiti law, Kuwait will apply its national law.” Kuwait also made the following reservations concerning article 25 (b): “The Government of Kuwait wishes to formulate a reservation with regard to article 25(b). The provisions of this paragraph conflict with the Kuwaiti electoral law, which restricts the right to stand and vote in elections to males.”

Country	Islam State Religion?	ICCPR Ratification Status <sup>138</sup>	Constitutional Provisions for the Right to Freedom of Religion or Belief
			does not disrupt the public order or contradict with morals.
Qatar	Yes	Not a State Party	<b>Article 50</b> The freedom to worship is guaranteed to all, according to the law and the requirements to protect the public order and public morals.
Saudi Arabia	Yes	Not a State Party	<b>The Basic System of the Consultative Council (Decree A/90), 1992</b>  <b>Article 9</b> The family is the kernel of Saudi society, and its members shall be brought up on the basis of the Islamic faith, and loyalty and obedience to God, His Messenger, and to guardians; respect for and implementation of the law, and love of and pride in the homeland and its glorious history as the Islamic faith stipulates.  <b>Article 26</b> The state protects the rights of the people in line with the Islamic sharia.
Syria	No	Apr. 21, 1969	<b>Article 35</b> (1) The freedom of faith is guaranteed. The state respects all religions. (2) The state guarantees the freedom to hold any religious rites provided they do not disturb the public order.
Tunisia	Yes	Mar. 18, 1969	<b>Article 5</b> The Tunisian Republic guarantees the inviolability of the human person and freedom of conscience, and protects the free exercise of beliefs, with reservation that they do not disturb the public order.
U.A.E.	Yes	Not a State Party	<b>Article 32</b> The freedom to hold religious ceremonies in accordance with established custom shall be safeguarded, provided such ceremonies are consistent with public order and with public morals.
Yemen	Yes	Feb. 9, 1987	<b>Article 41</b> ... The State shall by law secure freedom of thought and expression whether orally, in writing or in pictures and as provided for by law.  <b>Article 51</b> Private houses and worship and education centres shall not be violated, put under surveillance or searched unless otherwise provided for by law.

*South Asia*

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
Afghanistan	Yes	Jan. 24, 1983	<p><b>Article 2</b> The religion of Afghanistan is the sacred religion of Islam. Followers of other religions are free to perform their religious rites within the limits of the provisions of law.</p> <p><b>Article 45</b> 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 shall develop the curriculum of religious subjects in schools on the basis of the Islamic sects existing in Afghanistan.</p> <p><b>Article 54</b> ...The State shall adopt necessary measures to ensure the physical and psychological well-being of the family...and the elimination of traditions contrary to the principles of the sacred religion of Islam.</p>
Bangladesh	Yes	Sep. 6, 2000	<p><b>Article 39</b> Freedom of thought and conscience is guaranteed.</p> <p><b>Article 41</b> (1) Subject to law, public order and morality— (a) every citizen has the right to profess, practice or propagate any religion; (b) every religious community or denomination has the right to establish, maintain and manage its religious institutions. (2) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own.</p>
Maldives	Yes	Not a State Party	<p><b>Article 25</b> Every citizen shall have the freedom to express his conscience and thoughts orally or in writing or by other means, unless prohibited by law in the interest of protecting the sovereignty of the Maldives, of maintaining public order and of protecting the basic tenets of Islam.</p>
Pakistan	Yes	Not a State Party	<p><b>Article 20</b> Subject to law, public order and morality: (a) Every citizen shall have the right to profess, practice and propagate his religion; and (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.</p> <p><b>Article 21</b> No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.</p>

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
			<p><b>Article 22</b></p> <p>(1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.</p> <p>...</p> <p>(3) Subject to law:</p> <p>(a) no religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and</p> <p>(b) no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.</p> <p>(4) Nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens.</p>

*East Asia*

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
Brunei	Yes	Not a State Party	<p><b>Article 3</b>            (1) The religion of Brunei Darussalam shall be the Muslim Religion according the Shafeite sect of that religion. Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam.</p>
Indonesia	No	Not a State Party	<p><b>Article 28E</b>            (1) Every person shall be free to choose and to practice the religion of his/her choice...            (2) Every person shall have the right to the freedom to believe his/her faith (kepercayaan), and to express his/her views and thoughts, in accordance with his/her conscience.            (3) Every person shall have the right to the freedom to associate, to assemble and to express opinions.</p> <p><b>Article 29</b>            (1) The State shall be based upon the belief in the One and Only God.            (2) The State guarantees all persons the freedom of worship, each according to his/her own religion or belief.</p> <p><b>Article 28I</b>            (1) ...freedom of thought and conscience [and] freedom of religion...are all human rights that cannot be limited under any circumstances.</p>
Malaysia	Yes	Not a State Party	<p><b>Article 11</b>            (1) Every person has the right to profess and practise his religion and, subject to Clause (4), to propagate it.            (2) No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.            (3) Every religious group has the right—                (a) to manage its own religious affairs;                (b) to establish and maintain institutions for religious or charitable purposes...            (4) State law and in respect of the Federal Territories of Kuala Lumpur and Labuan, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.            (5) This Article does not authorise any act contrary to any general law relating to public order, public health or morality.</p> <p><b>Article 12</b>            (2) Every religious group has the right to establish and maintain institutions for the education of children in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law; but it shall be lawful for the</p>



Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
			<p>Federation or a State to establish or maintain or assist in establishing or maintaining Islamic institutions or provide or assist in providing instruction in the religion of Islam and incur such expenditure as may be necessary for the purpose.</p> <p>(3) No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.</p>

*Africa*

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
Burkina Faso	No	Apr. 4, 1999	<b>Article 7</b> The freedom of belief, of non-belief, of conscience, of religious opinion, philosophy, of religious exercise, the freedom of assembly, the free practice of custom as well as the freedom of procession and its demonstration are guaranteed by the present Constitution subject to respect of the law, of the public order, of good morals and of the human person.
Chad	No	Jun. 9, 1995	<b>Article 27</b> The freedoms of opinion and of expression, communication, conscience, religion, the press, of association, assembly, circulation, demonstration, and parade are guaranteed to all. These can only be restricted by the respect of the liberties and rights of others and the imperative to safeguard the public order and good morals. The law determines the conditions of their exercise.  <b>Article 54</b> No one may avail oneself of his religious beliefs, nor his philosophical opinions to excuse oneself from a duty dictated by the national interest.
Comoros	No	Not a State Party	<b>Preamble:</b> The Comorian people solemnly affirm their will to: ... express their attachment to the principles and fundamental rights as defined by the Charter of the United Nations, the Organization for African Unity, the Pact of the Arab League, the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, as well as the international conventions, particularly those addressing the rights of children and women. ... This preamble forms an integral part of the Constitution.
Djibouti	No	Nov. 5, 2002	<b>Article 11</b> Everyone shall have the right to freedom of thought, conscience, religion, worship and opinion in conformity with the order established by law and the regulations.
Gambia	No	Mar. 22, 1979	<b>Article 25</b> (1) Every person shall have the right to— ... (b) freedom of thought, conscience and belief, which shall include academic freedom; (c) freedom to practise any religion and to manifest such practice; ... (4) The freedoms referred to in subsections (1) and (2) shall be exercised subject to the law of The Gambia in so far as that law imposes reasonable restrictions on the exercise of the rights and freedoms thereby conferred, which are necessary in a democratic society and are required in the interests of the sovereignty and integrity of The Gambia, national security, public order, decency or morality, or in relation to contempt of court.

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
			<p><b>Article 32</b> Every person shall be entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and to the condition that the rights protected by this section do not impinge on the rights and freedoms of others or the national interest, especially unity.</p> <p><b>Article 212</b> (3) All the people of The Gambia shall be entitled to their ethnic, religious and cultural values which do not disturb the unity or cohesion of the State.</p>
Guinea	No	Jan. 24, 1978	<p><b>Article 7</b> [Every individual] shall be free to believe, to think and to profess [their] religious faith...political or philosophical opinions. [Every individual] shall be free to express, to manifest and to diffuse [their] ideas and opinions by speech, by writing and by image. [Every individual] shall be free to instruct and [be informed] from sources available to all.</p> <p><b>Article 14</b> The free exercise of religious sects shall be guaranteed. Religious institutions and communities freely create and administer themselves. They shall not be subject to the tutelage of the state.</p>
Mali	No	Jul. 16, 1974	<p><b>Article 4</b> Every person has the right to freedom of thought, conscience, religion, worship [culte], opinion, expression and creation with respect to the law.</p> <p><b>Article 18</b> Every citizen has the right to education. Public education is obligatory, free and secular.</p>
Mauritania	Yes	Not a State Party	n/a
Niger	No	Mar. 7, 1986	<p><b>Article 8</b> ...The Republic shall respect and protect all faiths. No religion, no belief shall assume the political power nor interfere in the affairs of the State...</p> <p><b>Article 14</b> Each person shall have a right to the free development of his personality in its material, intellectual and spiritual, cultural and religious dimensions as long as he does not violate the right of others, does not infringe on constitutional order, legal order or morality.</p>

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
			<p><b>Article 23</b> Each person has the right to freedom of thought, of opinion, of expression, of conscience, of religion and of cult. The State guarantees the free exercise of the cult and the expression of beliefs. These rights are exercised in the respect of public order, of social peace and of national unity.</p>
Senegal	No	Feb. 13, 1978	<p><b>Article 8</b> The Republic of Senegal guarantees to all citizens fundamental individual freedoms, economic and social rights as well as the collective rights. These freedoms are in particular civil and political freedoms: freedom of opinion, freedom of association, freedom of assembly, freedom of movement, freedom of manifestation, the cultural freedoms [and] the religious freedoms...These freedoms and these rights are exercised within the conditions provided by law.</p> <p><b>Article 24</b> The freedom of conscience, the freedoms and the religious and cultural practices, the profession of the religious educator are guaranteed, subject to the public order. The institutions, the religious committees have the right to develop themselves without hindrance. They are detached from the tutelage of the State. They regulate and administer their affairs in an autonomous manner.</p>
Sierra Leone	No	Aug. 23, 1996	<p><b>Article 24</b> (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purpose of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom either alone or in community with others and both in public and in private to manifest and propagate his religion or belief in worship, teaching, practice and observance. (2) Except with his own consent...no person attending any place of education shall be required to receive religious instruction or to take part in or to attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own. (3) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination. (4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief. (5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes a provision which is reasonably required— (a) in the interest of defence, public safety, public order, public morality or public health; or (b) for the purpose of protecting the rights and freedoms of other persons including the right to observe and practise any religion without the unsolicited intervention of the members of any other religion; and except in so far as that provision or, as the case may be, the thing done under the authority</p>

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
			thereof, is shown not to be reasonably justifiable in a democratic society.
Somalia		Jan. 24, 1990	No internationally recognized government and no constitution.
Sudan	No	Mar. 18, 1986	<p><b>Article 24</b> Every human being shall have the right of freedom of conscience and religious creed, and he shall have the right to declare his religion or creed, and manifest the same by way of worship, education, practice or performance of rites or ceremonies; and no one shall be coerced to adopt such faith, as he does not believe in, nor to practice rites or services he does not voluntarily consent to; and that is without prejudice to the right of choice of religion, injury to the feelings of others, or to public order, all as may be regulated by law.</p> <p><b>Article 27</b> There shall be guaranteed for every community or group of citizens the right to preserve their particular culture, language or religion, and rear children freely within the framework of their particularity, and the same shall not by coercion be effaced.</p>

*Europe/Eurasia*

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
Albania	No	Oct. 4, 1991	<p><b>Article 20</b>                      1. Persons who belong to national minorities exercise in full equality before the law the human rights and freedoms.                      2. They have the right to freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop it, to study and to be taught in their mother tongue, as well as unite in organizations and societies for the protection of their interests and identity.</p> <p><b>Article 24</b>                      1. Freedom of conscience and of religion is guaranteed.                      2. Everyone is free to choose or to change his religion or beliefs, as well as to express them individually or collectively, in public or private life, through cult, education, practices or the performance of rituals.                      3. No one may be compelled or prohibited to take part or not in a religious community or in religious practices or to make his beliefs or faith public.</p>
Azerbaijan	No	Aug. 13, 1992	<p><b>Article 48</b>                      I. Everyone has the right to freedom of conscience and religion.                      II. Everyone has the right to independently define his attitude towards religion, to profess religion alone or together with others, or to profess no religion at all, to express and spread religious convictions.                      III. The free conduct of religious rites if it does not violate public order or public morality is authorized.                      IV. The violation of the freedom of religion and self-expression is not allowed.</p> <p><b>Article 71</b>                      IV. No one shall be compelled to make public religious and other convictions and thoughts and be persecuted for them.</p>
Kyrgyzstan	No	Oct. 7, 1994	<p><b>Article 16</b>                      11. Everyone is guaranteed the freedom of conscience, confession and religious or atheist activity. Everyone has the right to freely profess any religion or to not profess any, to choose, have and disseminate religious or atheist beliefs.</p> <p><b>Article 82</b>                      3. The Constitutional Court of the Kyrgyz Republic:                      8) Resolves issues concerning the constitutionality of activities of political parties, public associations and religious organizations.</p>
Tajikistan	No	Jan. 4, 1999	<p><b>Article 26</b>                      Everyone has the right to independently determine his (her) relationship toward religion, to profess any religion individually or together with others, or to profess none, and to participate in the performance of</p>

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
Turkey	No	Sep. 23, 2003	<p>religious cults, rituals, and ceremonies.</p> <p><b>Article 24</b>  Everyone has the right to freedom of conscience, religious belief and conviction. Acts of worship, religious services, and ceremonies can be conducted freely, provided that they do not violate the provisions of Article 14.  No one can [be] compelled to worship, or to participate in religious ceremonies and rites, to reveal his religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions.  Education and instruction in religion and ethics are conducted under state supervision and control. Instruction in religious culture and ethics education are compulsory in the curricula of primary and secondary schools. Other religious education and instruction are subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.  No one can be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for even partially basing the fundamental, social, economic, political, and legal order of the state on religious tenets or for the purpose of obtaining political or personal benefit and influence.</p> <p><b>Article 14</b>  None of the rights and freedoms embodied in the Constitution can be exercised for activities undertaken with the aim of...endangering the existence of the democratic and laic Republic based on human rights. No provision of the Constitution can be interpreted in a manner that would grants [sic] the State or individuals destroying the fundamental rights and freedoms embodied in the Constitution, or staging an activity with the aim of restricting rights and freedoms more extensively than is stated in the Constitution...</p>
Turkmenistan	No	May 1, 1997	<p><b>Article 11</b>  The State guarantees freedom of religion and conscience and their equality before the law. Religious organizations are separate from the State and may not interfere with State matters and perform State functions. The State educational system is separate from religious organizations and has a secular character.  Everyone has the right to independently determine his [her] attitude toward religion, to profess individually or with others any religion or not to profess any [religion], to express and disseminate convictions connected to the attitude toward religion [and] to participate in the practice of religious cults, rituals and ceremonies.</p>

Country	Islam State Religion?	ICCPR Ratification	Constitutional Provisions for the Right to Freedom of Religion or Belief
Uzbekistan	No	Sep. 28, 1995	<p><b>Article 31</b> Freedom of conscience is guaranteed to all. Everyone shall have the right to profess or not to profess any religion. Any compulsory imposition of religion shall be impermissible.</p> <p><b>Article 61</b> Religious organizations and associations are separate from the government and equal before the law. The government does not interfere in the activities of religious associations.</p>



**C. Table III: Equality and Prohibition of Discrimination  
Constitutional Provisions (By Region)**

*Middle East/North Africa*

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Algeria	Yes	<p><b>Article 29</b> The citizens are equal before the law without any possible discrimination on the basis of birth, race, gender (sex), opinion or all other conditions or personal or social circumstance.</p> <p><b>Article 31</b> The [government] institutions seek to assure the equality of rights and duties of all citizens...in suppressing the obstacles, which obstruct the development of the human personality and impede the effective participation of all in the political, economic, social and cultural life.</p> <p><b>Article 140</b> Justice is founded on the principles of legality and equality. It is equal for all, accessible to all, and is expressed by respect of the law.</p>
Bahrain	Yes	<p><b>Article 4</b> Justice is the basis of government. Cooperation and mutual respect provide a firm bond between citizens. Freedom, equality, security, trust, knowledge, social solidarity and equality of opportunity for citizens are pillars of society guaranteed by the State.</p> <p><b>Article 5</b> b. The State guarantees reconciling the duties of women towards the family with their work in society, and their equality with men in political, social, cultural, and economic spheres without breaching the provisions of Islamic canon law (Shari'a).</p> <p><b>Article 18</b> People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.</p>
Egypt	Yes	<p><b>Article 8</b> The State shall guarantee equality of opportunity to all citizens.</p> <p><b>Article 11</b> The State shall guarantee the proper coordination between the duties of woman towards the family and her work in the society, considering her equal with man in the fields of political, social, cultural and economic life without violation of the rules of Islamic jurisprudence.</p>

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
		<p><b>Article 40</b> All citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion or creed.</p>
Iran	Yes	<p><b>Article 3</b> In order to attain the objectives specified in Article 2 [belief system of the Islamic Republic], the government...has the duty of directing all its resources to the following goals: 9. the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and intellectual spheres... 14. securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law...</p> <p><b>Article 19</b> All people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; and colour, race, language, and the like, do not bestow any privilege.</p> <p><b>Article 20</b> All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.</p> <p><b>Article 21</b> The government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following goals: 1. create a favourable environment for the growth of woman's personality and the restoration of her rights, both the material and intellectual; 2. the protection of mothers, particularly during pregnancy and childrearing, and the protection of children without guardians; 3. establishing competent courts to protect and preserve the family; 4. the provision of special insurance for widows, and aged women and women without support; 5. the awarding of guardianship of children to worthy mothers, in order to protect the interests of the children, in the absence of a legal guardian.</p>
Iraq 1925	Yes	<p><b>Article 18</b> Iraqis shall be equal in status, as regards the enjoyment of their rights and the discharge of their obligations...</p>
Iraq 2004 (TAL)	Yes	<p><b>Article 12</b> All Iraqis are equal in their rights without regard to gender, sect, opinion, belief, nationality, religion, or origin, and they are equal before the law. Discrimination against an Iraqi citizen on the basis of his gender, nationality, religion, or origin is prohibited. Everyone has the right to life, liberty, and the security of his person. No one may be deprived of his life or liberty, except in accordance with legal procedures. All are equal before the courts.</p>

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Jordan	Yes	<p><b>Article 6</b>            (i) Jordanians shall be equal before the Law. There shall be no discrimination between them as regards their rights and duties, on grounds of race, language or religion.            (ii) The Government shall ensure work and education, within the limits of its possibilities, and shall ensure a state of tranquility and equal opportunities, to all Jordanians.</p>
Kuwait	Yes	<p><b>Article 8</b>            The State safeguards the pillars of Society and ensures security, tranquility and equal opportunities for citizens.</p> <p><b>Article 29</b>            All people are equal in human dignity, and in public rights and duties before the law, without distinction as to race, origin, language or religion.</p> <p><b>Article 175</b>            The provisions relating to the Amiri System in Kuwait and the principles of liberty and equality, provided for in this Constitution, may not be proposed for revision except in relation to the title of the Emirate or to increase the guarantees of liberty and equality.</p>
Lebanon	No	<p><b>Article 7</b>            All Lebanese are equal before the law. They equally enjoy civil and political rights, and assume obligations and public duties without any distinction among them.</p>
Libya	Yes	<p><b>Article 5</b>            All citizens are equal before the law.</p>
Morocco	Yes	<p><b>Article 5</b>            All Moroccans are equal before the law.</p> <p><b>Article 8</b>            Men and Women enjoy equal political rights.</p>
Oman	Yes	<p><b>Article 17</b>            All citizens are equal before the Law and share the same public rights and duties. There is no discrimination between them on the ground of gender, origin, colour, language, religion, sect, domicile, or social status.</p>
Qatar	Yes	<p><b>Article 18</b>            The Qatari society is based upon the pillars of justice, charity, freedom, equality, and good morals.</p> <p><b>Article 19</b>            The State protects the pillars of society, maintains security and stability, and equal opportunities for citizens.</p> <p><b>Article 35</b>            People are equal before the law. There shall be no discrimination against them because of sex, race, language, or religion.</p>

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Saudi Arabia	Yes	<p><b>Article 8</b> The rule in the kingdom is based on justice, consultations and equality in accordance with the Islamic sharia.</p>
Syria	No	<p><b>Article 25</b> (3) The citizens are equal before the law in their rights and duties. (4) The state insures the principle of equal opportunities for citizens.</p> <p><b>Article 45</b> The state shall guarantee for women all opportunities enabling them to fully and effectively participate in the political, social, cultural, and economic life. The state must remove the restrictions that prevent women’s development and participation in building the socialist Arab society.</p>
Tunisia	Yes	<p><b>Article 6</b> All citizens have the same rights and the same duties. They are equal before the law.</p>
U.A.E.	Yes	<p><b>Article 14</b> Equality, social justice, the provision of safety and security and equality of opportunity for all citizens shall be the bases of the community. Mutual co-operation and respect shall be a firm bond between them.</p> <p><b>Article 25</b> All persons shall be equal before the law. No discrimination shall be practised between citizens of the Union by reason of race, nationality, religious belief or social position.</p>
Yemen	Yes	<p><b>Article 24</b> The State shall provide equal political, economic, social and cultural opportunities for all citizens, and shall issue legislations ensuring proper application.</p> <p><b>Article 25</b> The Yemeni society shall hereby be established on social solidarity based on justice, freedom and equality as provided for by law.</p> <p><b>Article 31</b> Women are akin to men having rights and obligations as demanded by the Sharia’a and stipulated by law.</p> <p><b>Article 40</b> All citizens shall have equal rights and obligations.</p>

*South Asia*

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Afghanistan	Yes	<p><b>Article 22</b> Any kind of discrimination and privilege among the citizens of Afghanistan is prohibited. The citizens of Afghanistan have equal rights and duties before the law.</p>
Bangladesh	Yes	<p><b>Article 27</b> All citizens are equal before law and are entitled to equal protection of law.</p> <p><b>Article 28</b> (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. ... (3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.</p>
Maldives	Yes	<p><b>Article 13</b> Maldivian citizens are equal before and under the law and are entitled to the equal protection of the law.</p>
Pakistan	Yes	<p><b>Article 22</b> (2) In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.</p> <p><b>Article 25</b> (1) All citizens are equal before law and are entitled to equal protection of law. (2) There shall be no discrimination on the basis of sex alone.</p> <p><b>Article 26</b> (1) In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence or place of birth.</p> <p><b>Article 27</b> (1) No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race religion, caste, sex, residence or place of birth:</p>

*East Asia*

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Brunei	Yes	n/a
Indonesia	No	<p><b>Article 27</b>                      (1) All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions.</p> <p><b>Article 28D</b>                      (1) Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.</p> <p><b>Article 28I</b>                      (2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.</p>
Malaysia	Yes	<p><b>Article 8</b>                      (1) All persons are equal before the law and entitled to the equal protection of the law.                      (2) Except as expressly authorised by this Constitution, there shall be no discrimination against [sic] citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.                      ...                      (5) This Article does not invalidate or prohibit—                      (a) any provision regulating personal law...</p> <p><b>Article 12</b>                      (1) Without prejudice to the generality of Article 8, there shall be no discrimination against any citizen on the grounds only of religion, race, descent or place of birth—                      (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees; or                      (b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution...</p>

*Africa*

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Burkina Faso	No	<p><b>Article 1</b> All the Burkinabians are born free and equal in rights. All have an equal vocation to enjoy all the rights and all the freedoms guaranteed by the present Constitution. Discrimination of all sorts, notably those founded on race, ethnic [character], region, color, sex, language, religion, caste, political opinions, wealth and birth, are prohibited.</p> <p><b>Article 23</b> ...Marriage is founded on the free consent of the man and of the woman. Every discrimination founded on race, color, religion, ethnicity, caste, social origin, fortune is forbidden in the matter of marriage. Children are equal in rights and in duties within their familial relations.</p>
Chad	No	<p><b>Article 13</b> Chadians of either sex have the same rights and the same duties. They are equal before the law.</p> <p><b>Article 14</b> The State assures to all equality before the law, without distinction of origin, race, sex, religion, political opinion, or social position.</p> <p>It has the duty to see to the elimination of all forms of discrimination with regard to women and to assure the protection of their rights in all areas [domaines] of private and public life.</p> <p><b>Article 161</b> Until their codification, the customary and traditional rules are applicable only in the communities where they are recognized. However, those customs contrary to the public order or those which promote inequality between citizens are forbidden.</p>
Comoros	No	<p><b>Preamble:</b> [The Comorian people] proclaim: ... - Equality for all in rights and duties without distinction to sex, origin, race, religion or belief. - Equality for all before the law...</p> <p>This preamble forms an integral part of the Constitution.</p>
Djibouti	No	<p><b>Article 1</b> ... [Djibouti] shall ensure the equality of all citizens before the law, without distinction as to origin, race, sex or religion. It shall respect all beliefs...</p> <p><b>Article 10</b> The person is sacred. The State shall have the obligation to respect and protect it. All human beings shall be equal</p>

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Gambia	No	<p>before the law.</p> <p><b>Article 28</b>  (1) Women shall be accorded full and equal dignity of the person with men.  (2) Women shall have the right to equal treatment with men, including equal opportunities in political, economic and social activities.</p> <p><b>Article 33</b>  (1) All persons shall be equal before the law.  (2) Subject to the provisions of subsection (5), no law shall make any provision which is discriminatory either of itself or in its effect.  (3) Subject to the provisions of subsection (5), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.  (4) In this section, the expression “discrimination” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.  (5) Subsection (2) shall not apply to any law in so far as that law makes provision—  (a) with respect to persons who are not citizens of The Gambia or to qualifications for citizenship;  (b) with respect to the qualifications prescribed by this Constitution for any office;  (c) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;  (d) for the application in the case of members of a particular race or tribe of customary law with respect to any matter in the case of persons who, under that law, are subject to that law.  (6) Subsection (3) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (5).</p> <p><b>Article 216</b>  (1) The State shall endeavour to secure and promote a society founded on the principles of freedom, equality, justice, tolerance, probity and accountability.</p>
Guinea	No	<p><b>Article 4</b>  The law shall punish any act of racial, ethnic or religious discrimination, or any regionalistic propaganda, which could have a grave effect on national unity, the security of the State, the territorial integrity of the Republic or the democratic functioning of its institutions.</p> <p><b>Article 8</b>  All human beings shall be equal before the law. Men and women have the same rights. No one shall be favored or disadvantaged by reason of his birth, his race, his ethnicity, his language, his political, philosophical or religious</p>



Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
		beliefs and opinions.
Mali	No	<p><b>Article 2</b> Every Malian is born and remain [sic] free and equal in rights and duties. All discrimination founded on social origin, color, language, race, sex, religion and political opinion shall be prohibited.</p>
Mauritania	Yes	<p><b>Article 1</b> ... The Republic shall guarantee equality before the law to all of its citizens, without distinction as to origin, race, sex or social condition...</p>
Niger	No	<p><b>Article 8</b> ... The Republic shall assure to all the equality before the law without distinction of sex, of social, ethnic or religious origin... All particularist propaganda of regional, racial or ethnic character, all manifestation of racial, ethnic, political or religious discrimination, shall be punished by law...</p>
Senegal	No	<p><b>Article 1</b> The Republic of Senegal is secular, democratic, and social. It assures the equality before the law of all citizens, without distinction of origin, race, sex (or) religion. It respects all faiths.</p> <p><b>Article 5</b> Any act of racial, ethnic, or religious discrimination, as well as any regionalist propaganda which carries affects to the internal security of the State or to the territorial integrity of the Republic, are punished by law.</p> <p><b>Article 7</b> ...All human beings are equal before the law. There is in Senegal no subject, no privilege of birth, person or family.</p>
Sierra Leone	No	<p><b>Article 6</b> (2)...the State shall promote national integration and unity and discourage discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties.</p> <p><b>Article 8</b> (1) The Social Order of the State shall be founded on the ideals of Freedom, Equality and Justice. (2) In furtherance of the Social Order— (a) every citizen shall have equality of rights, obligations, and opportunities before the law, and the State shall ensure that every citizen has an equal right and access to all opportunities and benefits based on merit;</p> <p><b>Article 27</b> (1) Subject to the provisions of subsection (4), (5) and (7), no law shall make any provision which is discriminatory either of itself or in its effect. (2) Subject to the provisions of subsections (6), (7) and (8), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority. (3) In this section the expression “discriminatory” means affording different treatment to different persons attributable</p>

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
		<p>wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.</p> <p>(4) Subsection (1) shall not apply to any law so far as that law makes provision—</p> <p>(a) for the appropriation of revenues or other funds of Sierra Leone or for the imposition of taxation (including the levying of fees for the grant of licences); or</p> <p>(b) with respect to persons who are not citizens of Sierra Leone; or</p> <p>(c) with respect to persons who acquire citizenship of Sierra Leone by registration or by naturalization, or by resolution of Parliament; or</p> <p>(d) with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law; or</p> <p>(e) for the application in the case of members of a particular race or tribe or customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or</p> <p>(f) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency; or</p> <p>(g) whereby persons of any such description as mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society; or</p> <p>(h) for the limitation of citizenship or relating to national registration or to the collection of demographic statistics.</p> <p>(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to qualifications for service as a public officer or as a member of a defence force or for the service of a local government authority or a body corporate established directly by any law or of membership of Parliament.</p> <p>(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provisions of law as is referred to in subsection (4) or (5).</p> <p>(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction of the rights and freedoms guaranteed by sections 18, 22, 24, 25 and 26 being such a restriction as is authorised by subsection (3) of section 18, subsection (2) of section 22, subsection (5) of section 24, subsection (2) of section 25 or subsection (2) of section 26, as the case may be.</p> <p>(8) The exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person under or by this Constitution or any other law shall not be enquired into by any Court on the grounds that it contravenes the provision of subsection (2).</p>
Somalia		No internationally recognized government and no constitution available.

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Sudan	No	<p><b>Article 21</b>  All people are equal before the courts of law. Sudanese are equal in rights and duties as regards to functions of public life; and there shall be no discrimination only by reason of race, sex or religious creed. They are equal in eligibility for public posts and offices not being discriminated on the basis of wealth.</p>

*Europe/Eurasia*

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
Albania	No	<p><b>Article 18</b>            1. All are equal before the law.            2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry.            3. No one may be discriminated against for reasons mentioned in paragraph 2 if reasonable and objective legal grounds do not exist.</p>
Azerbaijan	No	<p><b>Article 25</b>            I. Everyone is equal before the law and the court.            II. Men and women have equal rights and freedoms.            III. Everyone has equal rights and freedoms irrespective of race, nationality, religion, sex, origin, property status, social position, convictions, political party, trade union organization and social unity affiliation. Limitations or recognition of rights and freedoms because of race, nationality, social status, language, origin, convictions and religion are prohibited.</p>
Kyrgyzstan	No	<p><b>Article 15</b>            3. All [persons] in the Kyrgyz Republic are equal before law and the court. No one can be subject to any kind of discrimination, violation of rights and freedoms on the ground of origin, gender, race, nationality, language, religion, political and religious convictions, or any other conditions and circumstances of personal or public nature.</p> <p><b>Article 22</b>            1. Laws of the Kyrgyz Republic concerning the rights and freedoms of citizens must be equally applied to all citizens and not bestow on anyone privileges and preferences, except for cases provided for by the Constitution of the Kyrgyz Republic and laws for the social protection of citizens.</p>
Tajikistan	No	<p><b>Article 17</b>            All are equal before the law and court. The State guarantees the rights and freedoms of everyone regardless of his nationality, race, gender, language, religious beliefs, political persuasion, education, [and] social and property status. Men and women have equal rights.</p>
Turkey	No	<p><b>Article 10</b>            All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.            No privilege can be granted to any individual, family, group or class.            State organs and administrative authorities act in compliance with the principle of equality before the law in all their proceedings.</p>
Turkmenistan	No	<p><b>Article 17</b>            Turkmenistan guarantees the equality of rights and freedoms of citizens as well as the equality of citizens before the law regardless of nationality, origin, property and official status, place of residence, language, attitude toward religion, political conviction [or] political affiliation.</p>

Country	Islam State Religion?	Constitutional Provisions for Equality and Prohibition of Discrimination
		<p><b>Article 18</b> A man and a woman in Turkmenistan have equal civil rights. Violation of equality of rights on grounds of gender entails responsibility according to law.</p>
Uzbekistan	No	<p><b>Article 18</b> All citizens of the Republic of Uzbekistan shall have equal rights and freedoms, and shall be equal before the law, without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status.</p> <p><b>Article 46</b> Women and men shall have equal rights.</p>

## **D. Population Data and Freedom of Religion Provisions of Non-Muslim Countries with Significant Muslim Populations**

### ***India***<sup>141</sup>

#### **Population Data**

<u>Estimated Muslim Population:</u>	120,000,000
<u>Estimated % Muslim Population:</u>	12%
<u>Religious or Secular State?</u>	Constitution preamble: sovereign socialist secular democratic republic

#### **Constitutional Formulation**

##### **Article 14**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

##### **Article 15**

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—
  - (a) access to shops, public restaurants, hotels and places of public entertainment; or
  - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
- (3) Nothing in this article shall prevent the State from making any special provision for women and children.
- (4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

##### **Article 25**

- (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.
- (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—
  - (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
  - (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

...

Explanation II—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

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<sup>141</sup> Constitution of India (as amended to the 86th Amendment Act, 2002).

**Article 26**

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

**Article 27**

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

**Article 28**

- (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
- (2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.
- (3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

**Article 30**

- (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

**Article 51A**

It shall be the duty of every citizen of India—;

- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

## *Nigeria*<sup>142</sup>

### **Population Data**

<u>Estimated Muslim Population:</u>	68,500,000
<u>Estimated % Muslim Population:</u>	50%
<u>Religious or Secular State?</u>	n/a

### **Constitutional Formulation**

#### **Article 10**

The Government of the Federation or of a State shall not adopt any religion as State Religion.

#### **Article 15**

(2) ...national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

(3) For the purpose of promoting national integration, it shall be the duty of the State to—

(c) encourage inter-marriage among persons from different places of origin, or of different religious, ethnic or linguistic association or ties; and

(d) promote or encourage the formation of associations that cut across ethnic, linguistic, religious or other sectional barriers.

#### **Article 23**

The national ethics shall be Discipline, Integrity, Dignity of Labour, Social Justice, Religious Tolerance, Self-reliance and Patriotism.

#### **Article 38**

(1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(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 other than his own, or a religion not approved by his parent or guardian.

(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.

(4) Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.

#### **Article 42**

(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person—

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<sup>142</sup> Constitution of the Federal Republic of Nigeria (Promulgation) Decree 1999.



(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

### **Article 262**

(1) The Sharia Court of Appeal shall, in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law.

(2) For the purposes of subsection (1) of this section, the Sharia Court of Appeal shall be competent to decide—

(a) any question of Islamic personal law regarding a marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;

(b) where all the parties to the proceedings are muslims, any question of Islamic personal law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;

(c) any question of Islamic personal law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a muslim;

(d) any question of Islamic personal law regarding an infant, prodigal or person of unsound mind who is a muslim or the maintenance or the guardianship of a muslim who is physically or mentally infirm; or

(e) where all the parties to the proceedings, being muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.<sup>143</sup>

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<sup>143</sup> Arts. 275-279 of the Nigerian constitution also provide for establishment of state-level sharia courts.

*China*<sup>144</sup>

**Population Data**

<u>Estimated Muslim Population:</u>	20,000,000
<u>Estimated % Muslim Population:</u>	1.4%
<u>Religious or Secular State?</u>	n/a

**Constitutional Formulation**

**Article 4**

All nationalities in the People's Republic of China are equal. The state protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities.

Discrimination against and oppression of any nationality are prohibited; any acts that undermine the unity of the nationalities or instigate their secession are prohibited.

**Article 33**

All citizens of the People's Republic of China are equal before the law.

Every citizen enjoys the rights and at the same time must perform the duties prescribed by the constitution and the law.

**Article 36**

Citizens of the People's Republic of China enjoy freedom of religious belief.

No state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.

The state protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state.

Religious bodies and religious affairs are not subject to any foreign domination.

**Article 48**

Women in the People's Republic of China enjoy equal rights with men in all spheres of life, political, economic, cultural and social, including family life.

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<sup>144</sup> Constitution of the People's Republic of China (as amended to March 29, 1999).

*Russia*<sup>145</sup>

**Population Data**

<u>Estimated Muslim Population:</u>	20,000,000
<u>Estimated % Muslim Population:</u>	14%
<u>Religious or Secular State?</u>	Secular

**Constitutional Formulation**

**Article 13**

1. In the Russian Federation, ideological diversity is recognized.
2. No ideology can be instituted as a state-sponsored or mandatory.

**Article 14**

1. The Russian Federation is a secular state. No religion may be instituted as state-sponsored or mandatory.
2. Religious associations are separated from the state, and are equal before the law.

**Article 19**

1. All are equal before the law and the court.
2. The State guarantees the equality of rights and freedoms without regard to gender, race, nationality, language, origin, property or employment condition, attitude toward religion, membership in public associations or any other circumstances. Any forms of limitation of rights of man and citizen on social, racial, linguistic or religious grounds [are prohibited].
3. Man and women have equal rights and freedoms and equal possibilities of their realization.

**Article 28**

Everyone is guaranteed the freedom of conscience, freedom of religious worship, including the right to profess, individually or jointly with others, any religion, or to profess no religion, to freely choose, possess and disseminate religious or other beliefs, and to act in conformity with them.

**Article 29**

1. Everyone is guaranteed the freedom of thought and speech.
2. Inadmissible are propaganda or agitation, inciting social racial, national hatred and strife. Forbidden are propaganda of social, racial, national, religious or racial superiority.

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<sup>145</sup> Constitution of the Russian Federation, 1993

## *Ethiopia*<sup>146</sup>

### **Population Data**

<u>Estimated Muslim Population:</u>	31,950,000
<u>Estimated % Muslim Population:</u>	45%
<u>Religious or Secular State?</u>	n/a

### **Constitutional Formulation**

#### **Article 11**

1. State and religion are separate.
2. There shall be no state religion.
3. The state shall not interfere in religious matters and religion shall not interfere in state affairs.

#### **Article 25**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.

#### **Article 27**

1. Everyone has the right to freedom of thought, conscience and religion. This right shall include the freedom to hold or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. Without prejudice to the provisions of sub-Article 2 of Article 90, believers may establish institutions of religious education and administration in order to propagate and organize their religion.
3. No one shall be subject to coercion or other means which would restrict or prevent his freedom to hold a belief of his choice.
4. Parents and legal guardians have the right to bring up their children ensuring their religious and moral education in conformity with their own convictions.
5. Freedom to express or manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, peace, health, education, public morality or the fundamental rights and freedoms of others, and to ensure the independence of the state from religion.

#### **Article 34**

1. Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable [sic] age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce.

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<sup>146</sup> Constitution of the Federal Democratic Republic of Ethiopia, 1995.

5. This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute. Particulars shall be determined by law.

**Article 35**

1. Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right with men.

7. Women have the right to acquire, administer, control, use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property.

**Article 90**

2. Education shall be provided in a manner that is free from any religious influence, political partisanship or cultural prejudices.

## *Tanzania*<sup>147</sup>

### **Population Data**

<u>Estimated Muslim Population:</u>	12,600,000
<u>Estimated % Muslim Population:</u>	35%
<u>Religious or Secular State?</u>	n/a

### **Constitutional Formulation**

#### **Article 9**

The object of this Constitution is to facilitate the building of the United Republic as a nation of equal and free individuals enjoying freedom, justice, fraternity and concord, through the pursuit of the policy of Socialism and Self Reliance which emphasises the application of socialist principles while taking into account the conditions prevailing in the United Republic. Therefore, the state authority and all its agencies are obliged to direct their policies and programmes towards ensuring—

(g) that the Government and all its agencies provide equal opportunities to all citizens, men and women alike without regard to their colour, tribe, religion, or station in life;

#### **Article 13**

(1) All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law.

(2) No law enacted by any authority in the United Republic shall make any provision that is discriminatory either of itself or in its effect.

(5) For the purposes of this Article the expression “discriminate” means to satisfy the needs, rights or other requirements of different persons on the basis of their nationality, tribe, place of origin, political opinion, colour, religion or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications.

#### **Article 19**

(1) Every person has the right to the freedom of thought or conscience, belief or faith, and choice in matters of religion, including the freedom to change his religion or faith.

(2) Without prejudice to the [r]elevant laws of the United Republic the profession of religion, worship and propagation of religion shall be free and a private affair of an individual; and the affairs and management of religious bodies shall not be part of the activities of the state authority.

(3) In this Article reference to the word “religion” shall be construed as including reference to religious denominations, and cognate expressions shall be construed accordingly.

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<sup>147</sup> Constitution of the United Republic of Tanzania of 1977 (as amended to 1998).

## **E. Selected International Human Rights Documents**

### ***i. Universal Declaration of Human Rights 1948***

UN Doc. A/811

#### **Preamble**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

**Article 1**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3**

Everyone has the right to life, liberty and security of person.

**Article 4**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.



**Article 11**

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13**

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14**

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15**

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16**

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17**

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

**Article 18**

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.

**Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20**

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

**Article 21**

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

**Article 23**

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25**

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**Article 26**

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27**

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

**Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29**

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**Article 30**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

***ii. International Covenant on Civil and Political Rights 1966***

UN Doc. A/6316 (1966) (select articles)

**Article 2**

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
  - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
  - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
  - (c) To ensure that the competent authorities shall enforce such remedies when granted.

**Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

**Article 4**

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

### **Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

### **Article 18**

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

### **Article 19**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

### **Article 20**

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

### **Article 21**

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety,

public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 22**

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

#### **Article 26**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### **Article 27**

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

**iii. UN Human Rights Committee, General Comment No. 22:  
The Right to Freedom of Thought, Conscience and Religion (ICCPR Art. 18) 1994**  
UN Doc. CCPR/C/21/Rev.1/Add.4

1. The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4.2 of the Covenant.

2. 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. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.

3. Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one’s choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1. In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.

4. The freedom to manifest religion or belief may be exercised “either individually or in community with others and in public or private”. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or headcoverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.



5. The Committee observes that the freedom to “have or to adopt” a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief. Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature.

6. The Committee is of the view that article 18.4 permits public school instruction in subjects such as the general history of religions and ethics if it is given in a neutral and objective way. The liberty of parents or legal guardians to ensure that their children receive a religious and moral education in conformity with their own convictions, set forth in article 18.4, is related to the guarantees of the freedom to teach a religion or belief stated in article 18.1. The Committee notes that public education that includes instruction in a particular religion or belief is inconsistent with article 18.4 unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

7. In accordance with article 20, no manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. As stated by the Committee in its General Comment 11 [19], States parties are under the obligation to enact laws to prohibit such acts.

8. Article 18.3 permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education cannot be restricted. In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18. The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner. The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; consequently,

limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition. Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. States parties' reports should provide information on the full scope and effects of limitations under article 18.3, both as a matter of law and of their application in specific circumstances.

9. The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26. The measures contemplated by article 20, paragraph 2 of the Covenant constitute important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by articles 18 and 27, and against acts of violence or persecution directed towards those groups. The Committee wishes to be informed of measures taken by States parties concerned to protect the practices of all religions or beliefs from infringement and to protect their followers from discrimination. Similarly, information as to respect for the rights of religious minorities under article 27 is necessary for the Committee to assess the extent to which the right to freedom of thought, conscience, religion and belief has been implemented by States parties. States parties concerned should also include in their reports information relating to practices considered by their laws and jurisprudence to be punishable as blasphemous.

10. If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.

11. Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. When this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no

discrimination against conscientious objectors because they have failed to perform military service. The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service.

***iv. UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief 1981***

UN Doc. A/36/684

*Considering* that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for the observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

*Considering* that the Universal Declaration on Human Rights [General Assembly Resolution 217A (III)] and the International Covenants on Human Rights [General Assembly Resolution 2200A (XXI)] proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion and belief,

*Considering* that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations,

*Considering* that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

*Considering* that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion and belief to ensure that the use of religion or belief for ends inconsistent with the Charter, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

*Convinced* that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

*Noting with satisfaction* the adoption of several, and the coming force of some, conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

*Concerned* by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

*Resolved* to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the grounds of religion or belief,

*Proclaims* this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

**Article 1**

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

**Article 2**

1. No one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion or other beliefs.
2. For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

**Article 3**

Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration on Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

**Article 4**

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

**Article 5**

1. The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

2. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
3. The child shall be protected from any form of discrimination on the grounds of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.
4. In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
5. Practices of a religion or beliefs in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

#### **Article 6**

In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

#### **Article 7**

The rights and freedoms set forth in the present Declaration shall be accorded in national legislations in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

**Article 8**

Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration on Human Rights and the International Covenants on Human Rights.

***v. Vienna Concluding Document of the Organization for Security and Cooperation in Europe (OSCE) 1986***

*[The following predominantly Muslim countries are members of the OSCE: Albania, Azerbaijan, Kyrgyzstan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan. OSCE Mediterranean Partners and Partners for Cooperation include Algeria, Egypt, Jordan, Lebanon, Libya, Morocco, Syria and Tunisia.]*

**Principles**

(16) In order to ensure the freedom of the individual to profess and practice religion or belief, the participating States will, inter alia,

(16.1) take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers;

(16.2) foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers;

(16.3) grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries;

(16.4) respect the right of these religious communities to

- establish and maintain freely accessible places of worship or assembly,
- organize themselves according to their own hierarchical and institutional structure,
- select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted arrangement between them and their State,
- solicit and receive voluntary financial and other contributions;

(16.5) engage in consultations with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom;

(16.6) respect the right of everyone to give and receive religious education in the language of his choice, whether individually or in association with others;

(16.7) in this context respect, inter alia, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions;

(16.8) allow the training of religious personnel in appropriate institutions;



(16.9) respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief,

(16.10) allow religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials;

(16.11) favourably consider the interest of religious communities to participate in public dialogue, including through the mass media.

(17) The participating States recognize that the exercise of the above-mentioned rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with their obligations under international law and with their international commitments. They will ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion or belief.

## **F. About the U.S. Commission on International Religious Freedom**

The U.S. Commission on International Religious Freedom (USCIRF) is an independent federal commission created by the International Religious Freedom Act of 1998 (IRFA) (Public Law 105-292) to monitor the status of freedom of thought, conscience, and religion or belief abroad, as defined in the Universal Declaration of Human Rights and related international instruments, and to give independent recommendations to the Secretary of State and Congress. The Commission is the first government commission in the world with a mandate to review and report on violations of the internationally-guaranteed right to freedom of religion or belief worldwide. By publicly providing reliable information, analysis, and creative and responsible policy recommendations, the Commission gives the U.S. government and the American people the tools necessary to advance religious freedom and related human rights.

The Commission is composed of ten members. Three are appointed by the President. Three are appointed by the President *pro tempore* of the Senate, of which two are appointed upon the recommendation of the Senate Minority Leader. Three are appointed by the Speaker of the House of Representatives, of which two are appointed upon the recommendation of the House Minority Leader. The system of appointments thus provides that leaders of the party in the White House appoint five voting members, and leaders of the other party appoint four. The Ambassador-at-Large for International Religious Freedom serves *ex officio* as a non-voting member. Commissioners bring a wealth of expertise and experience in foreign affairs, human rights, religious freedom, and international law; the membership also reflects the religious diversity of the United States.

In carrying out its mandate, the Commission reviews information on violations of religious freedom as presented in the Department of State's *Country Reports on Human Rights Practices* and its *Annual Report on International Religious Freedom*. The Commission also consults regularly with representatives of religious communities and institutions, human rights groups, other non-governmental organizations, academics and other policy experts, as well as the intelligence community and other U.S. government agencies. It also visits foreign countries to examine religious freedom conditions firsthand. The Commission holds public hearings, taking testimony from expert witnesses, victims of religious freedom violations, and U.S. government officials.

The Commission meets with the President and senior Administration officials, including the Secretary of State and the National Security Advisor, to discuss its findings and recommendations. The Commission also briefs Members of Congress, U.S. Ambassadors, and officials from international organizations and foreign countries. In addition, the Commission testifies before Congress, participates with U.S. delegations to international meetings and conferences, helps provide training to Foreign Service officers and other U.S. officials, and advises the Administration and Members of Congress and their staff on executive and legislative initiatives.

The Commission also raises issues and brings its findings and recommendations to the American public, through its public speaking activities, other public events such as roundtables and briefings, media outreach, and its publications and Web site. Commissioners reside throughout the United States, and the Commission has traveled around the country to hold public hearings, public meetings, and other activities to inform the American people of its work.

The Commission's website is available at <http://www.uscirf.gov/>.