



UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

Executive Summary:

The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries

The Commission’s study analyzes the constitutional provisions concerning the relationship between religion and the state, freedom of religion or belief, and other related human rights in 44 predominantly Muslim countries stretching from Europe to Africa, through the Middle East and into Asia. The diversity of the Muslim world mirrors a central finding of the study, that predominantly Muslim countries encompass a variety of constitutional arrangements—ranging from Islamic republics with Islam as the official state religion, to secular states with strict separation of religion and state.

In addition, the study found that:

- More than half of the world’s Muslim population (estimated at over 1.3 billion) lives in countries that are neither Islamic republics nor that have declared Islam to be the 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.
- Countries in which Islam is the declared state religion may also 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—that compare favorably with international standards.
- A number of constitutions of predominantly Muslim countries incorporate or otherwise reference international human rights instruments.

Constitutional Role for Islam

- Out of 44 predominantly Muslim countries, 15 constitutions provide for Islamic law, principles, or jurisprudence as a source of, or limitation on, general legislation (these include countries that are declared Islamic states and/or have declared Islam the religion of the state).
- Islamic principles can be recognized in the constitution, but may be 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.” However, part 2 of the same article states that this principle, while “fundamental to the governance of Bangladesh...shall not be judicially enforceable.”
- The scope and ramifications of establishing a constitutionally-mandated legislative role for Islam vary from country to country: in some cases it is limited to certain areas of law; and in many cases, no guidance is given regarding what governmental body, if any, is charged with assessing the conformity of legislation with Islamic principles or law.
- Principles other than Islam can be included as checks on legislation. 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.” Pakistan and Bangladesh have provisions declaring that laws inconsistent with constitutionally-protected rights are void.

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Guarantee of the Right to Freedom of Religion or Belief

Standards drawn from international instruments and required for an effective constitutional guarantee of the right of freedom of religion or belief include:

- Applicability to every individual, regardless of religion or belief;
- Freedom to manifest all aspects of a religion or belief, including worship, teaching, practice, and observance, either individually or in community with others, in public or private;
- Protection against coercion that would impair the freedom to have or to adopt a religion or belief of one’s choice; and
- Limitations on the right to freedom of thought, conscience, and religion or belief only in those circumstances provided under international law.

Failure to provide explicit protection for individuals means that—depending upon interpretation and application—the dominant religious group or the state may impose the parameters of the right to freedom of religion or belief on all individuals, regardless of their religion or belief.

Examples of constitutional provisions that compare favorably with international human rights standards from countries where Islam is the declared state religion

Pakistan and Bangladesh: Subject to law, public order and morality: Every citizen shall have the right to profess, practice and propagate his religion [and] every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

Iraq’s Transitional Administrative Law (TAL): “Each Iraqi has the right to freedom of thought, conscience, and religious belief and practice. Coercion in such matters shall be prohibited.”

Countries where Islam is the state religion may have constitutional provisions that, on their face, do not compare favorably with all aspects of international standards, including provisions:

- Limited to worship or the practice of religious “rites”;
- Limited to one or more religions or class of religions;
- Allowing limitations on freedom of religion by any ordinary law; or
- Failing to protect each individual.

Map: Predominantly Muslim Countries Classified by Constitutional Role for Religion



The comparative constitution study, in its entirety, is available for download from the Commission’s web site, <http://www.uscirf.gov>.