

Combating Religious-Based Violence in Africa

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I. Religious Persecution in Africa

A. Extent of Persecution in Africa

1. According to Open Doors:

- Of the 8 countries in the world where Christians face the most extreme persecution, 5 are in Africaⁱ:
 - Somalia #2
 - Libya #3
 - Eritrea #4
 - Nigeria #6
 - Sudan #8
- 1 in 5 Christians in Africa face persecution.ⁱⁱ
- 4098 Christians were killed for their faith in Nigeria in 2023.ⁱⁱⁱ

2. The United States Commission on International Religious Freedom's 2023 annual report named^{iv}:

- Eritrea and Nigeria as countries of particular concern;
- Algeria, Central Africa Republic, and Egypt as special watch list countries.

B. Examples of Persecution in Africa

1. Violence

a. Personal violence

- Christians in Nigeria, especially in the Muslim-majority north, face attacks, kidnapping, and murder. More Christians are killed for their faith in Nigeria each year than in the rest of the world combined.^v
- Christians have faced rape, kidnapping, and looting in Sudan since conflict broke out in April 2023.^{vi}
- Female converts to Christianity (or suspected of conversion) in Somalia commonly face rape, abduction, or forced marriage.^{vii}
- “In several regions of [the Central African Republic], ethnicity and religion are so strongly linked that violence based on ethnoreligious identity poses a risk to religious freedom.”^{viii} The violence has targeted both Christians and Muslims.

- b. Destruction of property
 - Open Doors reports that 165 churches have closed and others have been destroyed in the Sudan conflict that broke out in 2023.^{ix}
2. Restrictions on Religious Belief and Practice
- a. Restrictions on religious speech
 - i. Blasphemy laws
 - Some nations have anti-blasphemy laws that forbid criticism of Mohammed, Islam, or Muslims.
 - In northern Nigeria “A Shari’a court sentenced Sheikh Abduljabar Kabara to death for blasphemy. Judicial authorities sentenced humanist leader Mubarak Bala to 24 years in prison for blasphemy and other charges. A high court ruled that blasphemy laws in Shari’a penal codes are constitutional and remanded the blasphemy case against Yahaya Sharif Aminu back to Shari’a courts for retrial.”^x
 - Egypt’s criminal code bans “insulting the heavenly religions.”^{xi}
 - ii. Anti-proselytism laws
 - Somalia “prohibits the propagation of any religion other than Islam.”^{xii} “[E]ven telling children about Christianity could risk radical members of the clan attacking the child’s parents. All children must attend madrassa and take Islamic classes.”^{xiii}
 - b. Restrictions on conversion
 - i. Anti-conversion laws
 - These laws are very common in Muslim nations, especially for those from a Muslim background. Many who convert are prosecuted, lose employment, or suffer violence from family members.
 - Somalia’s constitution forbids conversion from Islam.^{xiv}
 - While Libya does not explicitly prohibit conversion, the United States State Department reports that “the criminal code effectively prohibits missionary activities or conversion.”^{xv}
 - ii. Forced Conversion
 - “Forced and early marriages are commonplace (and legally permissible) in Somalia. As such, forced marriage – often to much older men – is easily accessible as a means of coercion to restore converts back to Islam. Some

are pressured by families, whilst radical Muslims abduct others for the purpose of forced conversion, marriage and sexual slavery.”^{xvi}

3. Seizure of property and closure of churches

- Algeria – Since 2017, the government has closed almost all Protestant churches; they were told that they were violating a law that requires authorization for non-Muslim worship.^{xvii} But the organization that would need to give authorization (National Commission for Non-Muslim Religious Groups) never meets to consider authorization requests. Only four of 47 congregations of the Evangelical Protestant Church of Algeria remain open.^{xviii}

II. Legal Framework for Freedom of Religion or Belief

A. Key Documents

1. National constitutions and laws
2. United Nations documents

Universal Declaration of Human Rights (1948) – 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.

International Covenant on Civil and Political Rights (in force 1976) – 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.

Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981) – Article 6

[T]he 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.

3. African Charter on Human and Peoples' Rights

African Charter on Human and Peoples' Rights (in force 1986) – Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

B. Key Enforcement Institutions

1. United Nations Institutions

Human Rights Council

- 47 member states
- Tasked with strengthening the promotion and protection of human rights around the globe and addressing situations of human rights violations and making recommendations on them
- Important functions:
 - Universal Periodic Review
 - Creating special mandates – including Special Rapporteur on the Freedom of Religion or Belief
 - Complaint system

Human Rights Committee

- 18 experts on human rights serving as individuals
- Important functions: review periodic reports; create general comments; review individual complaints (if nation has ratified 1st Optional Protocol).
- Views are not binding as a matter of international law.

2. African Union Regional Institutions

African Commission on Human and Peoples' Rights;

- Consists of 11 members serving as individuals.
- Meets in Banjul, The Gambia.
- Drafts documents and resolutions and hears complaints regarding human rights.
- Provides significant role for NGO involvement in its work.

African Court on Human and Peoples' Rights

- Has 11 judges serving as individuals.
- Meets in Arusha, Tanzania.
- Hears both advisory and contentious cases regarding human rights.
- Court decisions are binding as a matter of international law.

III. Legal Protections for Freedom of Religion: Achievements and Challenges

A. Achievements

1. Extensive monitoring of violations of the freedom of religion.

- Special Rapporteur on Freedom of Religion and Belief – Advocates for and brings attention to the freedom of religion. Current special rapporteur is Nazila Ghanae.^{xix}

- United States Commission on International Religious Freedom – Created pursuant to the International Religious Freedom Act. As amended by the Frank R. Wolf International Religious Freedom Act of 2016, the act:

seeks to make religious freedom a higher priority in U.S. foreign policy through a range of mechanisms and tools. These include governmental institutions (USCIRF as an independent legislative branch agency, the ambassador at large and the State Department’s IRF Office, and a position on the White House NSC staff); ongoing monitoring and annual reports on religious freedom violations; and the imposition of consequences for the worst violators.^{xx}

2. Important decisions in other regions

- ***Kokkinakis v Greece (1993)*** – 1st Article 9 case decided by European Court of Human Rights; Court ruled that Greece violated Article 9 of the European Convention on Human Rights by prosecuting (for “unlawful proselytism”) Jehovah’s witness who sought to convert a Greek Orthodox woman. The Convention protects the right to “manifest” one’s religion, not just believe. “Manifest” includes words and deeds. “Bearing witness in words and deeds is bound up with the existence of religious convictions.”
- ***Moscow Branch of Salvation Army v Russia (2006)*** – European Court of Human Rights ruled that Russia violated the Salvation Army’s freedom of religion when it denied the Salvation Army permission to register as an official organization. The Salvation Army was allowed to continue its activities and ordered Russia to pay thousands of rubles in damages.

3. Effective work of advocates and non-governmental organizations.

- Example: Asia Bibi blasphemy case. Ultimately Pakistan Supreme Court ruled that hers was a wrongful conviction.^{xxi}

B. Challenges

1. Lack of rule of law. Constitution or laws provide protections, but those provisions often go unenforced for religious minorities.
2. The Shari’a Law Reservation – Often, when Muslim nations ratify treaties, their ratification is subject to the reservation that all interpretation and enforcement is “subject to Shari’a.”
3. Disagreement over the meaning of religious freedom.

Example: “Defamation of Religion” – Limitations on speech are justified in the name of protecting human rights. Must protect people from “defamation of religion:” speech deemed critical of Islam, Mohammed, Muslims. See UN Human Rights Council resolutions in 2008 and 2010.

4. Strong limitation clauses in African Charter

- Article 8: “No one may, **subject to law and order**, be submitted to measures restricting the exercise of these freedoms.”

ⁱ <https://www.opendoors.org/en-US/persecution/countries/>

ⁱⁱ <https://www.opendoors.org/en-US/persecution/countries/>

ⁱⁱⁱ <https://www.opendoors.org/en-US/persecution/persecution-trends/>

^{iv} <https://www.uscirf.gov/sites/default/files/2024-01/AR%202023.pdf>

^v <https://www.opendoors.org/en-US/persecution/countries/nigeria/>

^{vi} <https://www.opendoors.org/en-US/persecution/countries/sudan/>

^{vii} https://www.opendoors.org/persecution/reports/Somalia-Media_Advocacy_Dossier-ODI-2024.pdf

^{viii} <https://www.uscirf.gov/sites/default/files/2024-01/AR%202023.pdf>

^{ix} <https://www.opendoors.org/en-US/persecution/countries/sudan/>

^x <https://www.uscirf.gov/sites/default/files/2024-01/AR%202023.pdf>

^{xi} <https://www.uscirf.gov/sites/default/files/2024-01/AR%202023.pdf>

^{xii} <https://www.state.gov/reports/2022-report-on-international-religious-freedom/somalia/>

^{xiii} https://www.opendoors.org/persecution/reports/Somalia-Media_Advocacy_Dossier-ODI-2024.pdf

^{xiv} https://www.opendoors.org/persecution/reports/Somalia-Media_Advocacy_Dossier-ODI-2024.pdf

^{xv} <https://www.state.gov/reports/2022-report-on-international-religious-freedom/libya/>

^{xvi} https://www.opendoors.org/persecution/reports/Somalia-Full_Country_Dossier-ODI-2024.pdf

^{xvii} https://www.uscirf.gov/sites/default/files/2022-04/2022%20USCIRF%20Annual%20Report_1.pdf

^{xviii} <https://www.opendoors.org/en-US/persecution/countries/algeria/>

^{xix} <https://www.ohchr.org/en/special-procedures/sr-religion-or-belief#:~:text=Current%20mandate%20holder,-On%201%20August&text=Nazila%20Ghanea%20assumed%20her%20mandate,at%20the%20University%20of%20Oxford.>

^{xx} <https://www.uscirf.gov/sites/default/files/2023-05/2023%20Annual%20Report.pdf>

^{xxi} <https://www.bbc.com/news/world-asia-47040847>