



OpenDoors

Serving persecuted **Christians** worldwide

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United Nations Human Rights Council- Universal Periodic Review

Universal Periodic Review – The Somali Republic

October 2010.

The Advocacy Department of Open Doors International submits this analysis of religious freedom in the Somali Republic as a contribution to the Universal Periodic Review of UN member-state Somalia.

Somalia is a very fragile, if not failed, state. The Transitional Federal Government is the acting government in Somalia, which only controls a small part of the capital Mogadishu, and has very limited to no control over the country. The continuing violence and the virtual lawlessness has created a humanitarian crisis in Somalia affecting all its citizens. Open Doors International focuses on the right to freedom of religion or belief, in particular on the position of the small Christian minority in Somalia, which during the last three years faced a worrying trend of increased pressure and violations of the right to freedom of religion or belief.

Religious demography

The total population of Somalia is estimated around nine million¹. Most Somali citizens follow the Sufi tradition. Observance of Sufi Islam is stronger in the south than in the more nomadic areas in northern Somalia². A very small and low profile minority of the Somali population are Christian, practising their faith in secret. Open Doors estimates the number of Christians in Somalia to be hundreds, of which some are expat.

Political and legal context

Somalia is a very fragile, if not failed, state. Since 2004, the Transitional Federal Government (TFG) is the acting authority in Somalia. It only controls a small part of the capital, and has very limited to no control over the country. The continuing violence and the virtual lawlessness has created a humanitarian crisis in Somalia affecting all its citizens.

The actual group that is controlling most part of the state is Al-Shabaab. The overall goal of Al-Shabaab is to turn Somalia into an Islamic state and to cleanse it from un-Islamic behaviour and morals. Al-Shabaab is an organisation that practises stoning to death for amongst others theft, apostasy and adultery. It also punishes people with flogging for e.g. not wearing proper clothing for both man as women, for covering properly by women³. Al-Shabaab considers amongst others Sufi followers and Christians as apostates⁴. The most radical Al-Shabaab leadership is located along the southern coast. Also some other Islamic militants, such as Hizbul Islam⁵, control parts of the country.

In 2004, a Transitional Federal Charter (TFC) was established. Nonetheless, Somalia's 1960 constitution and other national laws continue to have legal standing in issues not regulated in the

¹ US State department estimated the Somali population at 9.2 million in 2009.

² US Committee on International Religious Freedom (USCIRF) 2010 report, p 291.

³ Compass Direct 19 Oct 2009: A Somali Christian woman was killed by members of a militant Islamist group for declining to wear the veil: <http://www.compassdirect.org/english/country/somalia/11061/>

⁴ According to USCIRF 201, p 291. The effect on this for Sufi adherents is the closing of Mosques, assaulting of Sufi followers, and even killing of Sufi clerics.

⁵ Hizbul Islam has a nationalist focus, seeking a unified, Islamic Somali state. It is less organised and coordinated than Al-shabaab. Both however, want to implement Shariah law in the territories under its control.



TFC⁶. On 10 May 2009, the Transitional Parliament unanimously approved the implementation of Shariah law throughout the country. Agreement on and insight in what Shariah law looks like in practice has not been achieved as opinions of the stakeholders differ. The drafting process of the Somali constitution is still going on and Shariah law will be one of the last issues addressed⁷.

According to the Somali President Sheik Sharif, “Shariah law will respect democracy, human rights and women’s rights”⁸. Somalia ratified the ICERD⁹ in 1975 and succeeded to the ICCPR¹⁰ and the CAT¹¹ in 1990. Furthermore, as a member state of the UN, it is state party to the UDHR¹². As a state party to these conventions, Somalia is responsible to make sure that all its laws are consistent and Shariah not in violation with the conventions it committed itself to.

The TFC does not provide for religious freedom. Although article 15 regulates that “all citizens are equal before the law without distinction of religion”, limits have been set on the practice of this equality. Article 8 stipulates the Islam as the state religion and Islamic Shariah as the source for national legislation. Subsequently, the 1960 Somali Constitution decrees that “every person shall have the right to freedom of conscience and freely to profess his own religion and to worship it, subject to any limitations prescribed by law”, while the same article rules that “it shall not be permissible to spread or propagandise any religion other than the religion of Islam.”

Somaliland

The self declared Republic of Somaliland, which is not recognized by Somalia or the international community, is ruled by its own constitution. Somaliland declared Islam as the official religion in article five. Although in Somaliland it is allowed to study and discuss one’s religion, the promotion of any religion other than Islam is prohibited¹³. Moreover, in Somaliland conversion from Islam to any other or no religion is forbidden and penalties for this are set¹⁴. Non-adherents to the Islam cannot become presidential candidate¹⁵. The constitutions of Somaliland regulates that all laws need to be consistent with Islam. Further, permission is required for religious schools and places of worship and all places of worship and religious schools need to be approved by the Ministry of religion¹⁶.

Puntland

Puntland, a semi-autonomous region which does not seek independence, has its own constitution established in May 2009. Also the constitution of Puntland declared Islam as the official religion¹⁷. The Puntland constitution allows non-Muslims to practise their religion and protects them from being forced to convert to Islam. However, they are closely monitored and the promotion of any religion other than Islam is prohibited. Moreover, in reverse, Somali Muslims are not allowed to renounce their Islamic faith¹⁸. Puntland laws have to be consistent with Islamic law and citizens are obliged to obey international law only in so far as it does not contravene Islamic law¹⁹. Permission is required

⁶ The TFC rules in article 71 (2) that the Somalia Constitution of 1960 and other national laws apply “in respect of all matters not covered and not inconsistent with this Charter.”

⁷ USCIRF annual report 2010, p 286.

⁸ USCIRF 2010, p 289.

⁹ International Covenant on the Elimination of all Forms of Discrimination

¹⁰ International Covenant on Civil and Political Rights.

¹¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

¹² Universal Declaration of Human Rights.

¹³ Article 5 Somaliland Constitution. A Christian was jailed for providing Christian literature;

<http://www.compassdirect.org/english/country/somalia/9383/>.

¹⁴ Article 313 Somaliland Constitution.

¹⁵ Article 41,82 Somaliland Constitution

¹⁶ US State Department ,International Religious Freedom report 2009.

¹⁷ article 9 Puntland Constitution.

¹⁸ Article 12 Puntland constitution.

¹⁹ Article 40 (1) Puntland Constitution.



for religious schools and places of worship and all places of worship and religious schools need to be approved by the Ministry of religion²⁰.

Freedom of religion or belief for Christian Minorities

Somali Christians face several forms of persecution. Firstly, as Somali and Muslim one is not allowed to change religion, thus being a Christian is illegal in Somalia. Although the Somali constitution does not explicitly forbid conversion, the constitutions of Puntland and Somaliland do, as well as Islamic Shariah which is established by the TFG. Christians are therefore not legally protected and can even receive death penalty under Shariah law. Secondly, Christians in Somalia face high social pressure and ostracism or even death when the family or community discovers the conversion to Christianity. The third and for Somali Christians most dangerous source of persecution are Islamic militants that aim to wipe out all that is not Islam. As Al-shabaab reportedly seeks actively for Somali who converted to Christianity²¹, Somali Christians live in a precarious situation and generally fear for their lives .

World Watch List position

Currently, Somalia ranks the fourth place on the Open Doors World Watch List²². The year 2009 recorded a serious deterioration for the situation of the Christian minority in Somalia. In spring 2009, the Shariah law was adopted unanimously by the parliament of the TFG. Al-Shabaab appeared to hunt actively after Christians in the country and reports were received of at least eleven Christians killed. Others were kidnapped, arrested or physically harmed and several fled the country. As a result Somalia ended higher on the list than previous years. Already in 2008, a considerable deterioration of religious freedom occurred in Somalia. An increase of persecution of Christians led to at least ten Christians being killed in 2008 and several others kidnapped and raped. As a result, for 2009, Somalia ranked the fifth place on the World Watch List. Because few incidents took place in the year 2007, Somalia ranked the twelfth position in 2008. The raise from the twelfth to the fourth position in three years shows the serious increase in incidents against Christians in Somalia and a considerable deterioration of religious freedom in the country.

²⁰ US State Department , International Religious Freedom report 2009.

²¹ Compass Direct 22 Aug 2009: Somali Christian was shot to death at the border with Kenya:
<http://www.compassdirect.org/english/country/somalia/4893/>

²² The Open Doors World Watch List is compiled from a specially-designed questionnaire of 50 questions covering various aspects of religious freedom. A point value is assigned depending on how each question is answered. The total number of points per country determines its position on the World Watch List. The questions differentiate between the legal, official status of Christians and the actual situation of individual Christians. Attention is paid to the role of the church in society and to factors that may obstruct the freedom of religion in a country.



Recommendations

Open Doors International recommends the TFG of Somalia:

- To incorporate international human rights standards into its constitution, including freedom of religion or belief as defined in articles 18 of the Universal Declaration of Human rights and the International Covenant on Civil and Political Rights.
- To ensure that its set of laws is consistent with international human rights standards and to keep this in mind during the drafting process and implementation of its constitution.
- To review the legislation regarding, and treatment of, religious groups that falls short to the obligations following the International Covenant on Civil and Political Rights (ICCPR), and make sure that they comply with its obligations.
- To allow all Somali citizens full freedom of religion or belief, including the freedom to change from Islam to Christianity and to any other or no religion, as provided for in article 18 ICCPR.
- To protect the Christian minority and other religious minorities by fostering a climate of religious tolerance and respect.
- To request technical assistance of the international community and the United Nations to restore law and order in the country; to make use of the expertise of the international community in establishing a constitution and an independent judicial system in the country in consistence with international law and human rights .