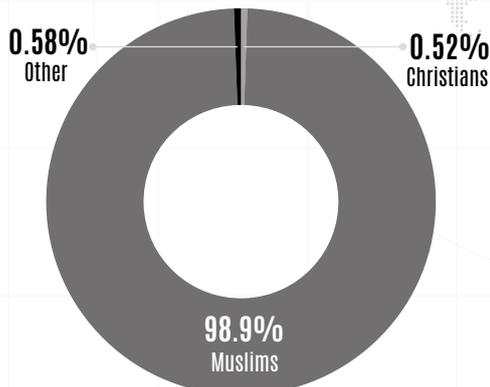




LIBYA

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Since the downfall of Muammar Gaddafi's regime in 2011, Libya has been mired in a permanent upheaval. Violence erupted again following elections in June 2014 and in December 2015, an interim government, the Government of National Accord (GNA), was formed under a United Nations-led initiative and was recognised as the sole legitimate authority in Libya.

Field Marshal Khalifa Haftar, head of the Libyan National Arab Army (LNA), later became head of a de facto separate government in a large portion of eastern Libya, with Tobruk as his base.¹ He is the main political adversary of Fayeze El-Sarraj, head of the Presidential Council of Libya, which acts as the presidency of the GNA, and controls a relatively small part of the territory of Libya, with Tripoli as his base.²

Tensions between the main factions eventually degenerated into a series of military clashes, leading to a civil war with wider regional dimensions.

Violent extremist groups and terrorist organisations, including the Islamic State group (Daesh), used the internal conflicts, the post-Gaddafi power vacuum, and govern-

ment inaction to expand their influence in Libya. Parts of the territory remain outside of either government's control.

Amid violent protests due to deteriorating living conditions and corruption, Libya's Tobruk-based government, under Khalifa Haftar, resigned on 14th September 2020. Since then, the LNA is represented by Aguila Saleh Issa. Two days later, Fayeze al-Sarraj, head and prime minister of the Tripoli-based Government of National Accord, announced that he would resign from his position by the end of October 2020. He eventually left office on 5th February 2021.³ His successor is Mohamed Yunus al-Menfi.

Since 2011, Libya has been governed under a temporary constitution, the interim Constitutional Declaration promulgated by the National Transitional Council (NTC) on 3rd August 2011, revised on 13th March 2012. The Declaration states that Islam is the religion of the state and Shari'a (Islamic law) is the principal source of legislation. The state guarantees non-Muslims the freedom to practise their religion (Article 1).⁴ Article 6 promotes the equality of all Libyans before the law.⁵ The Declaration prohibits any form of discrimination on the basis of religion or sect. This is the first time that religious freedom has been constitutionally protected since 1969 when the late dictator Gaddafi took power. The draft of the new constitution

(2017)⁶ recognises Islamic Shari‘a as the only source of legislation, and does not guarantee any other aspects of freedom of religion and belief.⁷

Although the Constitutional Declaration prohibits any form of discrimination based on religion, the ongoing fighting between rival governments has restricted effective application of the interim constitution. Pre-revolution laws restricting religious freedom are still applied, and all kinds of discrimination occur.⁸ Non-Muslims are subject to legal restrictions and prohibitions. Articles 289, 290 and 291 of the Penal Code of Libya criminalise insulting, attacking and defaming religion, especially the state religion.⁹ Information by non-Muslims that can offend Muslims or threaten the country’s social structure is banned. Insulting Islam or the Prophet Mohammed as well as “instigating division” are punishable with a maximum penalty of death.¹⁰

Until recently, the Catholic Church ran a number of charitable and educational centres, among them hospitals, schools, and homes for the disabled, and thousands of young Libyans attended Catholic schools.¹¹

Islamic religious education is obligatory in state-run schools as well as in private educational institutions. Other forms of religious education are not offered in educational establishments.

Although limited, there are a number of non-Islamic places of worship in the country. Most foreign Christians are sub-Saharan African migrants, Catholic Filipino foreign workers, some Coptic Egyptian migrants, and other foreign residents from Europe. There are a few Anglicans, as well as Greek and Russian Orthodox, and nondenominational Christians.

Most of the Jewish population left the country between 1948 and 1967. As of 2004, there are none left.¹²

Non-Muslims are restricted in their right to worship; there are also restrictions on foreign clergy who must apply for visas or one-year residence permits.

The Catholic Church is present in various parts of Libya through three Apostolic Administrations and one Apostolic Prefecture. In 2017, Pope Francis named Bishop George Bugeja OFM as Apostolic Vicar of Tripoli.

The Ministry of Endowments (Waqf) and Islamic Affairs is in charge of Islamic worship in Libya, with authority over mosques, clergy and religious practices, ensuring that they conform to government regulations.¹³ This same body provides imams with the texts of their sermons,

which often contain matters of a political and social nature.

INCIDENTS AND DEVELOPMENTS

Madkhali-Salafis, ultra-conservative Sunni Muslims, are gaining importance in the country. They are playing an active role in armed groups and have become a decisive factor in the ongoing political conflicts. They firmly reject any kind of religious or cultural diversity.¹⁴

In May 2018, the Ministry of Interior integrated the Rada (Radaa) Special Deterrence Force (SDF), a GNA-aligned Salafist armed group.¹⁵ Rada is notably responsible for arresting and detaining people accused of violating Islamic law, including some accused of sorcery.

Given the precarious security situation and the lack of control over the territory, Libya has become a haven for human traffickers. Migrants and refugees have poured into the country hoping to make the crossing into Europe. Many have ended up in detention centres run by militias. Christians have said that they are more exposed to physical violence, sexual assault and rape than other migrants and refugees in such facilities.¹⁶ A field report by Refugees International found that Christian refugees were treated worse than Muslim refugees. An Ethiopian Christian woman said they hid their crosses “because the Libyan police working in [detention centres] didn’t appreciate Christians.”¹⁷

Several armed militias run detention centres for migrants and refugees. People arrested and detained by such groups for reportedly violating Islamic law have attested to being tortured and abused.¹⁸ According to Middle East Concern, a Christian rights advocacy group, apostates are severely punished in areas where Islamic militias operate as the de facto police force.¹⁹

In a February 2020 interview, Bishop Bugeja said that “the Libyan Church is present, not hidden”.²⁰ Although many Christians fled Libya after 2011 and 2014, the Catholic Church remained. Catholics are estimated to be around 3,000 in a country of seven million,²¹ Bishop Bugeja noted, but many are emigrating. The local Church includes another priest in Tripoli, three Friars Minor in Benghazi, two communities of Sisters of Mother Teresa, “a total of eight nuns who volunteer in two government institutions [...] housing the mentally disabled. Their efforts are deeply appreciated.”²²

The Vicariate of Tripoli has only one church, dedicated to

Saint Francis, which was confiscated following the 1969 revolution along with other churches. At present, it is “assigned to but not owned by the Church.”²³ Tripoli’s cathedral²⁴ has been transformed into the Jamal ‘Abdel-Nasser Mosque on Algeria Square. A second church dedicated to Mary Immaculate is in Benghazi.²⁵

After the Islamic State group set foot in the country and attacked Church properties, Catholic communities continued to worship in places other than church buildings.²⁶

Following the outbreak of the COVID-19 pandemic, mosques and other places of worship were closed, reopening only in October 2020. Worshippers went back to pray under certain conditions, which included wearing a face mask, respecting social distancing and limiting attendance to half of pre-coronavirus levels.²⁷

PROSPECTS FOR FREEDOM OF RELIGION

Theoretically guaranteed by Libya’s temporary constitution, freedom of religion is limited in practice though it has been deteriorating over the last years. One important concern is the de facto ban on proselytising and the severe penalties it entails.

Over the period under review, there has been an upsurge in killings of members of religious minorities, especially Christians; connected to that, extremist Islamic organisations linked to the Government of National Accord (GNA) have gained influence both on the ground and in political circles. What is more, because of the political divisions and the lack of a unified government, extremist groups are expanding, exercising control over parts of the country.

The inhumane treatment of mainly sub-Saharan and Christian migrants and refugees in Libya is a matter of great concern. Overall, there are no prospects for improvement in human rights, including freedom of religion or belief.

SOURCES / ENDNOTES

- 1 “Khalifa Haftar: The Libyan general with big ambitions,” BBC News, 8th April 2019, <https://www.bbc.com/news/world-africa-27492354> (accessed 20th February 2021).
- 2 “Libya country profile,” BBC News, 8th June 2020, <https://www.bbc.com/news/world-africa-13754897> (accessed 20th February 2021).
- 3 “Abdul Hamid Dbeibah: Who is Libya’s new prime minister?” Al Jazeera, 6th February 2021, <https://www.aljazeera.com/news/2021/2/6/abdul-hamid-dbeibah-who-is-libyas-new-prime-minister> (accessed 20th February 2021).
- 4 “Libya,” UN Women – Global Gender Equality Constitutional Database, <https://constitutions.unwomen.org/en/countries/africa/libya> (accessed 11th October 2020).
- 5 Ibid.
- 6 Libya 2016 Draft of 2 Mar 2016, Constitute Project, https://www.constituteproject.org/constitution/Libya_2016D?lang=en (accessed 15th October 2020).
- 7 The draft has still not been adopted. “Libya,” Middle East Concern – Defending the religious freedom of Christians, <https://www.meconcern.org/countries/libya/> (accessed 17th October 2020).
- 8 Bureau of Democracy, Human Rights, and Labor, “Libya,” 2019 Country Reports on Human Rights Practices, U.S. Department of State, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/libya/>, (accessed 11th October 2020).
- 9 Penal Code, International Labour Code, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/97659/134630/F-1373419708/LBY97659%20Eng.pdf> (accessed 20th February 2021).
- 10 Office of International Religious Freedom, “Libya,” 2019 Report on International Religious Freedom, U.S. Department of State, <https://www.state.gov/reports/2019-report-on-international-religious-freedom/libya/> (accessed 15th October 2020).
- 11 “The Catholic Church in Libya,” Encyclopedia.com, <https://www.encyclopedia.com/religion/encyclopedias-almanacs-transcripts-and-maps/libya-catholic-church> (accessed 9th November 2020).
- 12 “Jewish History,” jimena Libyan Experience, <http://jimenaexperience.org/libya/about-jimena/past-and-present/> (accessed 20th February 2021).
- 13 Office of International Religious Freedom, op. cit.
- 14 “Addressing the rise of Libya’s Madkhali-Salafis,” International Crisis Group, 25th April 2019, <https://www.crisisgroup.org/middle-east-north-africa/north-africa/libya/addressing-rise-libyas-madkhali-salafis> (accessed 4th November 2020).
- 15 “Libya: Decree integrating Radaa forces into a new security apparatus overlooks need for accountability,” Amnesty International Public Statement, 21st June 2018, <https://www.amnesty.org/download/Documents/MDE1986292018ENGLISH.pdf> (accessed 15th October 2020).
- 16 Office of International Religious Freedom, op. cit.
- 17 Izza Leghtas, “Death would have been better” – Libya – Field Report, Refugees International, April 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/2018%2BLibya%2BReport%2BPDF.pdf> (accessed 4th November 2020).
- 18 Office of International Religious Freedom, op. cit.
- 19 “Libya,” Middle East Concern, <https://www.meconcern.org/countries/libya/> (accessed 5th November 2020).
- 20 Daniele Rocchi, “Italian Bishops’ meeting on the Mediterranean. Msgr. Bugeja: ‘Libyan Church present, not hidden’,” Servizio Informazioni Religiosa, 18th February 2020, <https://www.agensir.it/mondo/2020/02/18/italian-bishops-meeting-on-the-mediterranean-msgr-bugeja-libia-libyan-church-present-not-hidden/> (accessed 5th November 2020).
- 21 “Our Cry from Libya: A Stable Peace is Needed - Bishop George Bugeja,” ACN Malta, 22nd January 2020, <https://www.acnmalta.org/2020/01/22/our-cry-from-libya-a-stable-peace-is-needed-bishop-george-bugeja/> (accessed 5th November 2020).
- 22 Daniele Rocchi, op. cit.
- 23 Ibid.
- 24 “Tripoli Cathedral,” Project Gutenberg Self-Publishing Press, http://www.self.gutenberg.org/articles/eng/Tripoli_Cathedral (accessed 20th February 2021).
- 25 “Our Cry from Libya: A stable peace is needed - Bishop George Bugeja,” ACN Malta, 22nd January 2020, <https://www.acnmalta.org/2020/01/22/our-cry-from-libya-a-stable-peace-is-needed-bishop-george-bugeja/> (accessed 5th November 2020).
- 26 Office of International Religious Freedom, op. cit.
- 27 “Libya capital’s mosques open after 7-month virus closure,” Arab News, 9th October 2020, <https://www.arabnews.com/node/1746576/middle-east> (accessed 5th November 2020).