

## Libya: Freedom of Religion

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Libya's interim constitution of 2011 establishes Islam as state religion and Islamic law as the main source of legislation. The constitution guarantees the freedom for non-Muslims to practice their religious rituals. In 2017 a new constitution was drafted. Contrary to the interim constitution, the 2017 document does not recognize other sources of legislation besides Islamic Sharia. The draft also fails to guarantee freedom of religion or belief, and does not prescribe religion as a ground for discrimination in its Article 7. A referendum on adoption of this draft constitution was planned for the first half of 2019, then delayed.

The law does not explicitly prohibit apostasy, however, article 291 of the Penal Code prescribes that “[a]nyone who publicly attacks the Islamic religion, which is the official religion of the State according to the Constitution of Libya, through expressions that are inappropriate for God, prophets, or messengers, shall be punished by a penalty of detention for a period not exceeding two years.” The provision does not prescribe the requirement of a mental element, such as intent, for the crime described, and does not explain nor clarify how narrowly or extensively “expressions that are inappropriate for God, prophets or messengers” should be interpreted. This leaves

significant room for arbitrary interpretation by accusers, law enforcement officers and the judiciary.

Libyan converts to Christianity are often arrested and detained on blasphemy charges on the grounds of sharing Christian materials online. They face pressure by police and family members to return to Islam through the use of physical and psychological coercion. Middle East Concern (MEC) reported that in September 2016 a number of Christian converts were arrested because one of them began to share Christian material via social media. Attracting the attention of the authorities the men were detained, verbally abused and subjected to physical and psychological torture. Late 2016, MEC was advised that a Christian convert had been detained in a city in the east of the country. The young man had several media accounts on which he used to share Christian material. The police said they had arrested him because of his 'proselytizing' activities on social media and because of allegations of blasphemy. He was not officially charged, and no formal legal proceedings were initiated. He was released after six months in detention and claimed that he was physically and psychologically tortured during his detention.

**Recommendation 1:** Amend the 2017 draft Constitution to include a provision that recognizes the right to freedom of religion or belief as formulated in Art. 18 of the ICCPR.

**Recommendation 2:** Amend article 7 of the 2017 draft Constitution to include religion as a basis for discrimination.

**Recommendation 3:** Repeal article 291 of the Penal Code on “insulting religions.”

Article 1 of the 2011 Constitution states: “Libya shall be an independent democratic state in which the people shall be the source of all powers. Its capital shall be Tripoli, Islam shall be its religion and Islamic Shari’a shall be the main source of legislation. The State shall guarantee for non-Muslims the freedom to practice their religious rituals. Arabic shall be the official language, while the linguistic and cultural rights of the Amazigh, the Tabous, the Touareg and the other components of the Libyan society shall be guaranteed.” The Constitution of Libya, 2011, available at: [https://www.constituteproject.org/constitution/Libya\\_2011.pdf](https://www.constituteproject.org/constitution/Libya_2011.pdf).

Article 7 of the 2017 draft Constitutions states: “Male and female citizens shall be equal in and before the law. There shall be no discrimination between them and all forms of discrimination for any reason such as ethnicity, colour, language, sex, birth, political opinion, disability, origin or geographical affiliation shall be prohibited in accordance with the provisions of this constitution.” Libya draft Constitution, 2017, available at: <https://www.temehu.com/CDA/final-draft-libya-constitution-29-july-2017-english-translation.pdf>.