

Religious Freedom in Algeria: Historical Foundations, Constitutional Framework, and Contemporary Regulatory Dynamics

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Abstract: This article examines the historical, constitutional, and regulatory foundations of religious freedom in Algeria, arguing that the principle is deeply embedded in the country's civilizational heritage and contemporary legal order. Drawing on Algeria's long-standing traditions of coexistence—from Amazigh cultural roots to the legacies of Saint Augustine and Emir Abdelkader—the study highlights the enduring national ethos of tolerance that has shaped both state identity and public policy. It analyzes the constitutional evolution of religious freedom, especially the interplay between Article 2 (Islam as the religion of the state) and guarantees of freedom of worship within the framework of a civil, democratic republic. The article then details the legal and regulatory mechanisms governing religious practice, including laws regulating political parties, counterterrorism provisions, audiovisual

communication, and the management of both Muslim and non-Muslim places of worship. Through comparative insights from Tunisia, France, and Germany, the study situates Algeria's "regulatory model" within broader debates on state-religion relations. It further assesses alignment with international human rights standards, notably the ICCPR, while addressing common misconceptions arising from misinterpretations of regulatory measures. The analysis concludes that Algeria seeks a balanced constitutional model that protects religious freedoms, preserves national unity, and prevents the instrumentalization of religion, thereby reaffirming a governance approach rooted in historical continuity, identity, and modern legal principles.

Keywords: Algeria; religious freedom; constitutional law; Islam and the state; civil state; freedom of worship; legal regulation of religion; religious pluralism; human rights; ICCPR; state-religion relations; Emir Abdelkader; Saint Augustine; comparative constitutionalism; public order; counterextremism policy; non-Muslim worship; regulatory model.

Despite the suffering inflicted by colonial rule for nearly one and a half centuries, the ethos of tolerance never faded from the hearts of Algerians. This is evident in the **Declaration**

of 1 November 1954, which stated that one of the central objectives of the liberation movement was the establishment of a “sovereign, democratic, and social Algerian State within the framework of Islamic principles, and with full respect for all fundamental freedoms without distinction of race or religion.” In that same spirit of tolerance, and in a remarkable gesture even toward the colonizers, the Declaration affirmed: “All French nationals who wish to remain in Algeria shall retain the choice between preserving their original nationality—thereby being treated as foreigners under the laws in force—or acquiring Algerian nationality, in which case they shall enjoy the same rights and bear the same obligations as Algerians.”

When Algeria endured the national tragedy of the 1990s as a result of blind terrorism, it was again the spirit of tolerance that guided the nation toward the Charter for National Reconciliation. This policy, initiated by public authorities and endorsed overwhelmingly by the Algerian people, played a decisive role in restoring peace and protecting lives and property—reaffirming cooperation, forgiveness, and the collective aspiration for freedom.

Algeria’s history is therefore replete with expressions of cultural coexistence and religious tolerance among different faiths, sects, and traditions. Islam—embraced freely and consciously by the Algerian people—has played a profound

role in consolidating the principle of religious freedom. The Qur’anic injunction *“There shall be no compulsion in religion”* functions as a foundational guarantee for the free practice of religious rites. Thus, despite the overwhelming Muslim majority, one finds churches standing alongside mosques across the country—symbolizing coexistence and religious freedom in practice.

Modern Algeria remains firmly committed to these foundational values, and its laws derive from these deeply embedded convictions. Religious freedoms in their various forms are guaranteed, constitutionally protected, and legally safeguarded from violations and abuses. At the same time, the legal system seeks to shield religious freedom from exploitation for political purposes, narrow interests, or extremist agendas—regardless of their ideological or ethnic origins.

Accordingly, **all Algerian citizens and foreign residents enjoy full freedom to practice their religious worship**, supported by state institutions and protected under the laws of the Republic. The opening, management, and regulation of places of worship—including mosques, churches, and other facilities—must take place in accordance with established legal frameworks designed to protect the physical and moral safety

of worshippers. In this regard, specific legislation governs religious practices for both Muslims and non-Muslims.

Nevertheless, occasional comments and reports continue to allege restrictions on religious freedoms in Algeria, often citing instances where certain groups opened clandestine places of worship without prior authorization or without meeting safety requirements, or engaged in irregular fundraising practices. Individuals involved in such violations are prosecuted not for practicing religion, but for breaching regulations that apply in every country. Conversely, places of worship that operate in compliance with the law enjoy full legal protections and privileges, as attested by their congregations and administrators.

Religious Freedom as a Complex Human Right: The Need for Constitutional and Legal Regulation

Freedom of religious practice is among the most complex human rights, situated at the intersection of religious, constitutional, security-related, and social considerations. It constitutes an expression of freedom of conscience and cultural identity, but it can also be misappropriated for political mobilization or societal division. This multidimensionality necessitates **constitutional and legal safeguards** that regulate—not suppress—religious practice in a

manner that preserves **public order, national unity, and the rights of others.**

Algeria offers a compelling case study due to the ongoing interaction between **Islamic identity, civil state principles, religious freedom, and regulatory needs.** Since independence, Algeria has adopted a “regulatory model” of state–religion relations. Islam is the state religion, yet religious practice is subject to organizational and legal oversight aimed at preventing extremism and ensuring social stability.

This study examines the **constitutional and legal architecture governing religious practice in Algeria,** tracing its historical evolution, assessing its alignment with international standards, and comparing it with selected regional and European experiences. The analysis is situated within ongoing national debates concerning **the civil character of the state, religious freedom, and the state’s role in managing religious affairs,** particularly after the 2020 constitutional revision.

I. The Constitutional Framework of Religious Practice in Algeria

1. Islam as the Religion of the State: Identity–Based Origin and Constitutional Boundaries

Article 2 of the **2020 Algerian Constitution** declares that “Islam is the religion of the state,” a provision originating in the

1976 Constitution. Although widely viewed as a defining identity clause, this provision does not establish a theocratic order. The Constitution simultaneously affirms that Algeria is a *“democratic and social Republic, organized as a civil and modern state”* (Article 1). This duality raises a core constitutional question: How can a civil state reconcile a religious identity clause with universal rights?

The prevailing interpretation situates Article 2 within an **identity and civilizational framework**, rather than doctrinal or theological governance. It functions as a cultural anchor affirming national identity, especially in the post-independence context, rather than an instrument of religious jurisprudence.

Nonetheless, the provision does grant the state regulatory authority over religious affairs—including the appointment of imams and the management of waqf institutions. As noted by **S. Bel'aid (2019)**, this has implications for the autonomy of religious institutions.

2. Constitutional Protection of Religious Practice

Article 51 of the Constitution guarantees freedom of worship, to be exercised *“in accordance with the law.”* The Algerian Administrative Court has interpreted “public order” broadly to include social peace, national security, and state

unity—granting the executive substantial discretion in overseeing religious activities.

3. Evolution of Constitutional Provisions

The constitutional treatment of religion has undergone several transformations:

- **1963:** No reference to Islam as the state religion.
- **1976:** Introduction of Article 2.
- **1989:** Addition of explicit guarantees for freedom of worship.
- **2016:** Strengthening the regulatory role of the Ministry of Religious Affairs.
- **2020:** Emphasis on the concept of *“the civil state”*.

The 2020 revision represents a shift toward constitutional balance, with broader interpretive space for religious freedoms within a modern civil state.

II. The Legal and Regulatory Framework Governing Religious Practice

1. Political Parties Law: Preventing the Instrumentalization of Religion

Law No. 12-04 (2012) prohibits the creation of political parties based on religious foundations or those responsible for exploiting religion in a manner that contributed to the national tragedy of the 1990s. Critics argue that this may restrict political expression, though it aligns with the state's commitment to preventing extremist manipulation of religion.

2. Counterterrorism Legislation and Religious Discourse

The Anti-Terrorism and Anti-Money Laundering Law (06-03, amended 2020) criminalizes incitement to hatred or violence through religious discourse (Article 88), reflecting the state's efforts to counter radicalization.

3. Audiovisual Communication Law

Article 32 of the Audiovisual Communication Law prohibits content that incites violence or hatred, serving as a safeguard against the misuse of religious discourse in media.

4. Regulation of Mosques and Religious Facilities

Executive Decree No. 13-377 (2013) outlines conditions for constructing and managing mosques, including prior authorization and regulations regarding foreign funding.

Similar rules apply to non-Muslim places of worship under Order 06-02 (2006).

III. Regulatory Measures as Public Policy: Balancing Security and Freedom

The regulatory framework is grounded in the need to preserve public order and prevent divisive dynamics. Order 06-02 (2006) includes provisions that reaffirm:

- The guarantee of religious practice for all (Article 2).
- Protection for non-Muslim religious associations (Article 3).
- Prohibition of discrimination based on religion (Article 4).
- State oversight and protection of religious buildings (Article 5).
- Establishment of a national committee for non-Muslim religious affairs (Article 9).

The penal provisions applied to unauthorized preaching are applied uniformly to all religious facilities, including mosques and churches, demonstrating the neutrality of enforcement.

IV. Comparative Perspectives

1. Tunisia: Civil Secularism

Tunisia adopts a civil model that acknowledges Islamic identity while offering broader latitude in religious practice.

2. France: Strict Laïcité

Characterized by total institutional separation, France prohibits religious symbols in certain public contexts but regulates places of worship through organizational structures.

3. Germany: Cooperative Model

Germany employs a cooperative framework in which religious organizations receive state support through mechanisms such as church taxes.

V. International Human Rights Standards

Algeria's constitutional and legal provisions align substantially with the **International Covenant on Civil and Political Rights (ICCPR)**:

- **Article 18** guarantees freedom of religion.
- **Article 19** permits restrictions necessary for public order, health, and the rights of others.

The Algerian Constitution reflects these principles, notably Articles 32, 38, and 42.

International reporting acknowledges areas for improvement—particularly regarding the construction of non-Muslim places of worship—though the Algerian state provides support to Christian institutions, including the restoration of the Notre Dame d’Afrique Basilica (Algiers), Saint Augustine Basilica (Annaba), and Santa Cruz Church (Oran).

VI. Challenges and Recommendations

Challenges

1. Misrepresentation and politically motivated reports.
2. Geopolitical instrumentalization of religious freedom discourse.
3. Fragmented global narratives influencing local perceptions.

Recommendations

1. Recontextualizing religious freedom within domestic constitutional realities.
2. Promoting interfaith dialogue and cooperative frameworks.
3. Supporting community initiatives that enhance coexistence.

4. Encouraging media professionalism and fact-based reporting.

Conclusion: Toward a Sustainable Constitutional Balance

This analysis demonstrates that Algeria is pursuing a comprehensive and methodical approach that acknowledges its Islamic identity while consolidating the principles of a civil state. The framework in place aims to protect individual rights and freedoms while ensuring national cohesion and compliance with the international conventions to which Algeria is a party.

Through historical continuity, constitutional development, and legal safeguards, Algeria seeks to maintain a balanced model of religious freedom—one that harmonizes identity, modern governance, and human rights.