

KENYA 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT

Executive Summary

The constitution and other laws and policies prohibit religious discrimination and protect religious freedom, including the freedom to practice any religion or belief through worship, teaching, or observance and to debate religious questions. The constitution provides for special *qadi* courts to adjudicate certain types of civil cases based on Islamic law. Human rights and Muslim religious organizations stated that certain Muslim communities, especially ethnic Somalis, were the target of government-directed extrajudicial killings, enforced disappearances, torture, arbitrary arrest, and detention. The government denied directing such actions. Ethnic Somali and other Muslim communities reported difficulties in obtaining government-mandated identification documents, citing heightened requirements.

The Somalia-based terrorist group Harakat al-Shabaab al-Mujahideen (al-Shabaab) carried out attacks in Mandera, Wajir, Garissa, and Lamu Counties and said it had targeted non-Muslims because of their faith. For example, on October 6, al-Shabaab claimed responsibility for the killings of six non-Muslims in a residential compound in Mandera County. Overall, there were fewer attacks on civilians by al-Shabaab and fewer resulting civilian casualties than in the previous two years.

Muslim minority groups, particularly those of Somali descent, were reportedly harassed by non-Muslims. There were reports of religiously motivated threats of societal violence and intolerance, such as Muslim communities threatening individuals who converted from Islam to Christianity.

The U.S. embassy emphasized the importance of respecting religious freedom in meetings with government officials, especially underscoring the role of interfaith dialogue in stemming religious intolerance and countering violent extremism. Embassy representatives regularly discussed issues of religious freedom, including the importance of tolerance and inclusion, with local and national civic and religious leaders. The embassy urged religious leaders to engage in interfaith efforts to promote religious freedom and respect religious diversity. The embassy supported interfaith efforts to defuse political and ethnic tensions, especially with regard to controversy over the composition of the national elections institution, the Independent Electoral and Boundaries Commission. The embassy also encouraged religious and civic leaders to work together across sectarian lines to advance tolerance and peaceful coexistence.

Section I. Religious Demography

The U.S. government estimates the total population at 46.8 million (July 2016 estimate), of which approximately 83 percent is Christian and 11 percent Muslim. Groups constituting less than 2 percent of the population include Hindus, Sikhs, and Bahais. Much of the remaining 4-5 percent of the population adheres to various traditional religious beliefs. Protestants account for 48 percent of the population, Roman Catholics 23 percent, and other Christian denominations, including evangelical Protestants and Pentecostals, 12 percent. Most of the Muslim population lives in the northeast and coastal regions, where religion and ethnicity (Somali and Mijikenda, respectively) are often linked. There are approximately 280,000 refugees and asylum seekers in the Dadaab refugee camps, most of whom are ethnic Somali Muslims. There are approximately 160,000 refugees in the Kakuma refugee camp, including Somalis, South Sudanese, and Ethiopians, who practice a variety of religions.

Section II. Status of Government Respect for Religious Freedom

Legal Framework

The constitution stipulates there shall be no state religion and prohibits religious discrimination. It provides for freedom of religion and belief individually or in communities, including the freedom to manifest any religion through worship, practice, teaching, or observance. The constitution also states individuals shall not be compelled to act or engage in any act contrary to their belief or religion. These rights shall not be limited except by law, and then only to the extent that the limitation is “reasonable and justifiable in an open and democratic society.”

The constitution requires parliament to enact legislation recognizing a system of personal and family law adhered to by persons professing a particular religion. It specifically provides for *qadi* courts to adjudicate certain types of civil cases based on Islamic law, including questions relating to personal status, marriage, divorce, or inheritance in cases in which “all the parties profess the Muslim religion.” The country’s secular High Court has jurisdiction over civil or criminal proceedings, including those in the *qadi* courts, and accepts appeals of any *qadi* court decision.

According to the law, new religious groups, institutions or places of worship, and faith-based nongovernmental organizations (NGOs) must register with the Registrar of Societies, which reports to the attorney general’s office. Indigenous and traditional religious groups are not required to register, and many do not. In

order to register, registrants must have valid national identification documents and pay a fee. Registered religious institutions and places of worship may apply for tax-exempt status, including exemption from paying duty on imported goods. The law also requires that organizations dedicated to advocacy, public benefit, or the promotion of charity or research to register with the NGO Coordination Board.

A 2013 law formally transferred to the government control of public schools formerly run by religious groups. All public schools have religious education classes taught by government-funded teachers. The national curriculum mandates religious classes, and students may not opt out. Some public schools offer religious education options, usually Christian or Islamic studies, but they are not required to offer both.

The Ministry of Information, Communications, and Technology must approve regional radio and television broadcast licenses, including for religious organizations.

The country is a party to the International Covenant on Civil and Political Rights.

Government Practices

There were reports by human rights groups of extrajudicial killings of members of Muslim groups by the government. Muslim groups said that the government linked the entire Muslim community with the terrorist group al-Shabaab, and discouraged, through intimidation, Muslim community members from reporting police misconduct. Muslim community leaders also stated they faced difficulties obtaining official identification documents, which they needed for voting and access to government and financial services. As religion and ethnicity are closely linked, it was difficult to categorize many incidents as being solely based on religious identity.

Human rights groups and prominent Muslim leaders stated the government targeted Muslims for extrajudicial killing, torture and forced interrogation, arbitrary arrest, detention without trial, and denial of freedom of assembly and worship. A July report by Human Rights Watch (HRW) reported 34 persons last seen in the custody of government security forces had disappeared over the past two years, and 11 bodies of people previously arrested were recovered. The victims were predominantly ethnic Somalis. The HRW report stated that some of the victims were either imams or Islamic education teachers, Islamic education students, or other Muslims with responsibilities in their local mosques. Imams in

mosques or Islamic schools where youths had previously been arrested for alleged links with al-Shabaab told HRW they and their colleagues were frequently targeted for questioning, arbitrary arrests and, in some cases, enforced disappearances and extrajudicial killings. The domestic NGO Independent Medico Legal Unit (IMLU) stated in early October that it had documented more than 100 civilian deaths because of police action in the prior eight months. Cabinet Secretary for the Interior Joseph Ole Nkaisery stated on October 5, “There is no policy whatsoever within the National Police Service to engage in extrajudicial killings,” and called the NGO statistics unsubstantiated.

The attorney general on May 1 suspended the registration of the Atheists in Kenya Society (AIK) following complaints by some religious leaders led by the Kenya National Congress of Pentecostal Churches (KNCPC) regarding AIK’s February 17 registration. The complaints said AIK was not consistent with the constitution, stating the constitution “recognizes Kenya as a country that believes in God.” The AIK appealed the decision in November.

According to media reports, a reported attack on September 11 by three Muslim women on a Mombasa police station prompted the Mombasa County commissioner to direct on September 16 that women in hijabs would be asked to remove their veils to undergo security checks when accessing public facilities. According to human rights organizations, the commissioner promptly clarified thereafter that only face veils needed to be removed for purposes of identification.

The Court of Appeal ruled in September that Muslim female students be allowed to wear a hijab as part of their school uniforms, overturning a March 2015 High Court verdict that said hijabs were discriminatory because they created disparity among students. The legal case arose from a 2014 lawsuit filed by the Methodist Church seeking to ban female students at St. Paul Kiwanjani High School in Isiolo from wearing the hijab and trousers, arguing the Methodist Church, as the school’s principal funder, should have the final say over student dress. The Court of Appeal decision stated that banning the hijab prevented female Muslim students from practicing their religion and therefore discriminated against them. Prior to the September ruling, government schools sometimes prevented girls from attending classes if they wore headscarves or other religious dress, stating such garments violated school uniform policies. It was unclear if the ruling also affected members of the Akorino religious group, which combines Christian and African styles of worship and requires adherents to cover their heads with turbans for men, (referred to as headgear), and veils for women. Members of 47 Akorino churches verbally protested in March over perceived discrimination in public offices and

institutions. The church leaders said the government discriminated against their members in hiring and that public schools occasionally ordered their children to remove their headgear or face suspension.

Although the government formally controls public schools run by religious groups, in practice, however, religious groups still have some say in their management and sometimes contest land ownership. For example, Precious Blood Secondary School in Nairobi County is a public school co-located with a Catholic convent and the teaching staff includes Catholic nuns of the order of Precious Blood Sisters.

Muslim leaders stated the police often linked the whole Muslim community to al-Shabaab. The Independent Policing Oversight Authority, a civilian government body that investigates police misconduct, said that intimidation by police often prevented members of the Muslim community from filing complaints about these incidents.

Muslim leaders reported Muslim citizens often faced particular difficulties acquiring national identification from the National Registration Bureau. Identification cards are required by law and are a prerequisite for voting and access to certain government and financial services. Failure to register is a crime. Muslim communities – including ethnic Somali communities, coastal Muslim communities, the Nubian community in Nairobi, and the Galjeel community around the Tana River – reported they were often subjected to more requirements than other groups in order to register. These included presentation of birth certificates and citizenship documents of their fathers and grandfathers. They stated they were also required to make special appearances at specified police stations. The government stated the additional scrutiny was necessary to deter illegal immigration and to fight terrorism and that such scrutiny was not intended to discriminate against certain ethnic or religious groups.

In January the government withdrew proposed Religious Societies Rules in response to religious leaders' objections. The attorney general proposed the rules in December 2014 to regulate religious organizations and keep their leaders accountable. The Religion News Service reported in January that the Rules came from concerns that some pastors were "fleecing" followers and that some mosques were becoming "centers of radicalization." Christian and Muslim leaders stated the Rules would "trample" on religious freedom and turn religious institutions into businesses and political entities. The government withdrew the proposed rules after President Uhuru Kenyatta met with religious leaders. They agreed that religious leaders and the public would be consulted and allowed to provide input

for a new draft. The draft had not been finalized at year's end. In the interim, new religious organizations were not able to register with the Registrar of Societies. According to the Inter-Religious Council of Kenya, more than 3,000 registration applications for religious groups were pending as of November.

The Kenya Institute of Curriculum Development, a government body established in 2013 to determine policies related to the national public education curriculum, began developing a new school curriculum that includes religious education material.

Abuses by Rebel or Foreign Forces or Terrorist Organizations

During terrorist attacks in northeast Kenya, multiple reports stated attackers targeted non-Muslims. On October 6, al-Shabaab claimed responsibility for an attack that killed six people in a residential compound in Mandera County, and stated it had targeted and killed Christians. On October 25, al-Shabaab claimed responsibility for a similar attack that killed 12 people at a hotel in Mandera. A similar attack resulting in the death of four people occurred on January 31 in Lamu County. Overall, there were fewer attacks on civilians by al-Shabaab and fewer resulting civilian casualties than in the previous two years.

Section III. Status of Societal Respect for Religious Freedom

There were reports of threats of violence towards individuals based on religious attire and expressions of intolerance towards members of other faiths. Given that religion and ethnicity are closely linked, it was difficult to categorize many incidents as being based exclusively on religious identity.

The Daily Nation reported that an improvised explosive device was left at the entrance to a Kianyaga Catholic church in June. The device was discovered and safely detonated following the evacuation of more than 500 Mass attendees. The authorities made no arrests by year's end.

According to NGO sources, some Muslim community leaders and their families were threatened with violence or death, especially some individuals who had converted from Islam to Christianity, particularly those of Somali ethnic origin.

Interreligious NGOs and political leaders said tensions remained high between Muslim and Christian communities because of the terrorist attacks over the previous three years.

Non-Muslims reportedly harassed or treated with suspicion people of Somali origin, who were predominantly Muslim. This was widely attributed to an escalation of intercommunal fear and outrage after the April 2015 Garissa University College attack in which al-Shabaab terrorists killed 147 people, targeting Christian students in particular, along with other terrorist attacks, predominantly by al-Shabaab, in recent years. Media reports stated that only a small fraction of the previously enrolled 800 students returned when Garissa reopened in January, and that most of those who returned were local and Muslim. The Roman Catholic archbishop of Garissa diocese stated that Christian students were afraid to return.

Media reported that a man who was shot while shielding Christians during an al-Shabaab attack on a bus in December 2015 died during surgery on January 18.

Religious leaders including Anglican, Catholic, evangelical, and others mediated a dispute regarding the political opposition's call to oust the commissioners of the Independent Electoral and Boundaries Commission (IEBC) over allegations of corruption and lack of integrity. After protracted weekly protests aimed at forcing out the IEBC commissioners turned violent in several cities between May and July, religious leaders joined with private sector leaders and international partners to negotiate a dialogue to reform the IEBC. Following a bipartisan dialogue and discussion of reforms to the IEBC through a parliamentary process, members of civil society and trade unions held a Multi Sectoral Forum to call for urgent adoption of the IEBC reforms to ensure the 2017 general elections could be credible, peaceful, and inclusive.

In June the Daily Nation reported that a group of evangelical Protestant bishops would bar political leaders who incited violence from attending church services ahead of the 2017 elections, and encouraged citizens not to vote for leaders spreading hatred. Bishop Mark Kariuki said, "The church will support politicians who embrace peace among our people."

Section IV. U.S. Government Policy

The U.S. embassy emphasized the importance of respecting religious freedom in meetings with government officials, especially emphasizing the role of interfaith dialogue in stemming religious intolerance and countering violent extremism (CVE). The Ambassador and embassy staff met frequently with religious leaders and groups, including the Inter-Religious Council of Kenya, the Supreme Council

of Kenya Muslims, the Coast Interfaith Council of Clerics, the Council of Imams and Preachers of Kenya, the Hindu Council of Kenya, the National Muslim Leaders Forum, and the National Council of Churches of Kenya. In October the Ambassador spoke at a CVE forum organized by a religious organization where he urged civil society and faith-based institutions to build resilient communities able to reject extremists' efforts to pit members of differing faiths against each other.

The Ambassador supported interfaith efforts to defuse political and ethnic tensions, including efforts to resolve the controversy over the credibility and composition of the IEBC.

In January and April the Ambassador met in Mombasa with Muslim leaders to discuss ongoing challenges of religious tolerance and cooperation in the country. He met periodically throughout the year with Muslim leaders in Nairobi. The Ambassador hosted iftars during Ramadan with Muslim, Christian, and Hindu leaders in Nairobi and Mombasa that emphasized the need for dialogue to defuse religious tensions. The embassy also assisted efforts to promote intra-Muslim dialogue on freedom and tolerance.

Embassy officials met individually with religious and civic leaders to urge them to continue to work across sectarian lines to reaffirm the importance of religious freedom, tolerance, and diversity. The embassy encouraged faith communities and other societal figures to see religious diversity as a national strength, and not as a source of strife and division.