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USCIRF Annual Report 2012 - The Commission's Watch List: Somalia

Egregious religious freedom violations by the U.S.-designated terrorist group al-Shabaab continue in Somalia, including: the violent implementation of its extremist interpretation of Islamic law and use of hudood punishments; execution of those it deems "enemies of Islam;" and killing of Christian converts. The internationally-recognized Transitional Federal Government (TFG) lacks the capacity to enforce religious freedom protections or address religious freedom violations. Although al-Shabaab conducts systematic, ongoing, and egregious violations of religious freedom, it is not the governing authority and Somalia cannot be designated a "country of particular concern." Therefore, USCIRF again places Somalia on its Watch List in 2011.

Somalia has been on the Watch List since 2009.

Background

Governing and Legal Framework: Somalia has not had a central government since the fall of former dictator Siad Barre in 1991. Neither the TFG nor al-Shabaab has full control of central or southern Somalia. Al-Shabaab seeks to establish a Caliphate, and violently challenges the TFG and the peacekeeping African Union Mission in Somalia (AMISOM) that protects it. The TFG gained control over the capital Mogadishu in this reporting period, due to advances by a bolstered AMISOM force and al-Shabaab's surprising withdrawal from the city in August. Additional gains were made in southern Somalia with Kenya's October intervention. However, the terrorist organization continues to control an extensive amount of territory in central and southern Somalia and fight a guerrilla war in Mogadishu. On February 9, 2012, al-Shabaab formally merged with al-Qaeda.

Internal divisions among the President, Prime Minister and Speaker of Parliament prevented them from implementing the Transitional Federal Charter and changing over to a permanent, elected government by August 2011. On June 9, President Sheikh Sharif and the Transitional Federal Parliament Speaker Sharif Hassan signed the Kampala Accord ending months of political stalemate and effectively extending the transitional period until August 2012. On September 6, all major political stakeholders, except Somaliland, signed the Roadmap for Ending the Transition in Somalia. It includes benchmarks, timelines and compliance mechanisms for the implementation of priority tasks, including presidential and parliamentary speaker elections by August 20, 2012 and the drafting and passage of a new constitution.

The Transitional Federal Charter, adopted in 2007, adheres to the 1960 Somali Constitution's provisions of freedom of religion or belief, including the right to discuss and study one's religion of choice. In December, Somali political and civil society leaders decided that a new constitution will be adopted no later than May 15, 2012. The new constitution will be built upon the Independent Federal Constitution Commission's July 2010 draft constitution. The first article of the draft constitution states that it is "based on the foundations laid by the Holy Qur'an and Sunna ... " Islam is to be the religion of the state and Shari'ah to be the supreme law of the land; no religion other than Islam will be permitted to be propagated and no law contrary to Shari'ah permitted to be enacted. The draft constitution prevents state discrimination on the basis of religion and does permit each Somali to freely practice his or her religion, although it also states that Muslims cannot convert from Islam. In May 2009, the TFG parliament unanimously approved nationwide implementation of Shari'ah; however, implementation likely will be difficult given the differing opinions of what this would entail.

Somaliland and Puntland: Separate constitutions govern Somaliland and Puntland. Both regions establish Islam as the official religion, prohibit the promotion of other religions, ban conversion from Islam, and require presidential candidates to be Muslim. The Somaliland constitution also requires Islamic education and that adopted laws not contradict Islam. The May 2009 Puntland constitution provides non-Muslims the freedom to practice their religion. There are few reports of religious freedom violations in Somaliland and Puntland.

Religious Freedom Conditions

Al-Shabaab continues to engage in systemic and egregious violations of religious freedom and is actively working to establish Somalia as a base for terrorism and spread violent religious extremism. The goal of the U.S.-designated terrorist group is to turn Somalia into an Islamic state, build a greater Somalia by incorporating regional areas with large ethnically-Somali populations such as Djibouti and areas of Ethiopia and Kenya, and spread its radical version of Islam. Al-Shabaab is responsible for attacks in Uganda and Kenya. Support for al-Shabaab continues to erode among Somalis who view its interpretation of Islam, use of hudood punishments, and al-Qaeda combat tactics as foreign to Somali society.

Shari'ah Law under al-Shabaab: Al-Shabaab violently implements its interpretation of shari'ah law in the territories it controls. Somalis accused of committing crimes or who al-Shabaab deems to have deviated from accepted behaviors are punished through stoning, amputation, flogging, and/or detention. It requires women to be fully covered in public and forbids them from engaging in commerce that brings them into contact with men. Men are forbidden to shave their beards, and those deemed with "inappropriate hairstyles" have had their heads shaved. Al-Shabaab orders businesses to close during Islam's five daily prayer times. A number of activities, such as playing soccer or listening to music, are forbidden.

In this reporting period, members of the terrorist organization executed dozens of persons accused of murder or spying for the TFG or Kenyan forces, calling them "enemies of Islam;" amputated the hands of accused thieves; opened fire on Somalis playing soccer, killing and injuring a number of victims; and arrested men and women for failing to abide by the organization's behavioral norms.

Al-Shabaab Killings of Christians/Converts: Al-Shabaab targets the very small and extremely low-profile Christian and Christian convert community. Five Christian converts were reported executed by al-Shabaab in this reporting period. Although conversion is legal in Somalia, it is socially unacceptable and there were a number of attacks on converts by fellow Somalis in 2011. Proselytism is banned and also considered socially unacceptable. Christians worship secretly in house churches.

Al-Shabaab Attacks on Sufis: In previous reporting periods, al-Shabaab killed Sufi clerics, attacked Sufi followers, destroyed Sufi mosques, and desecrated the tombstones of Sufi saints. It arrested Sufi clerics and prevented them from conducting classes or

attending mosques because of their "questionable" Islamic views, and prevented pilgrimages to Sufi shrines. There were no reports of such attacks in this reporting period.

Recommendations for U.S. Policy

The U.S. does not have an embassy or on-the-ground presence in Somalia. In September 2010, the Obama administration announced its "dual-track" policy. The first track continues U.S. policy supporting the TFG, primarily through training, equipping, and financing its security officers. The second track expands engagement with Puntland, Somaliland, and other areas outside of TFG control, focusing on service provisions and governance capacity to help them fight extremism. Executive Order 13536 blocks the property of certain persons contributing to the conflict in Somalia. The government has also successfully employed a strategy of using drone strikes against al-Shabaab leaders. In response to the serious violations of religious freedom in Somalia, the U.S. government should:

- engage TFG partners to make clear that the new constitution should explicitly include protections for religious freedom and human rights consistent with international law;
 - engage TFG partners to make clear they must fully respect universal human rights, including freedom of religion or belief, in its practices and laws;
 - urge the Special Representative of the UN Secretary-General for Somalia to make human rights, including religious freedom, a priority in his engagement with Somali actors;
 - engage government officials, religious leaders, and clan elders in Somalia, Somaliland, and Puntland on universal human rights, including freedom of religion or belief, and good governance;
 - increase funding for indigenous civil society organizations that promote human rights; and
 - increase engagement by the U.S. State Department and other relevant agencies with the Somali diaspora community in the U.S. on human rights, freedom of religion or belief, rule of law, and good governance.
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