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USCIRF Annual Report 2010 - The Commission's Watch List: Somalia

FINDINGS: Serious religious freedom abuses continue in Somalia. These violations are the result of: an on-going conflict with a strong sectarian nature; the implementation of a strict interpretation of Islamic law reminiscent of the Taliban, under which practices deemed "un-Islamic" are repressed, Sufi clerics and non-Muslims are killed, and Sufi religious sites are desecrated; and an increase in manifestations of radical interpretations of Islam and growth of extremist Islamic schools. The internationally recognized Transitional Federal Government (TFG) only controls a small area of the capital and does not have the capacity to enforce religious freedom protections or address religious freedom violations.

Based on these concerns, USCIRF again places Somalia on its Watch List for 2010. Somalia has been on the Commission's Watch List since 2009.

Somalia has not had an effective, central government since the fall of former dictator Siad Barre in 1991. The ensuing civil war and continuing conflicts have destroyed all national governing structures. In the absence of the rule of law, freedom of religion or belief, like all other human rights, is undermined by insurgents, warlords, self-appointed officials, local authorities, and prevailing societal attitudes. Throughout 2009, the U.S.-designated "foreign terrorist organization" al-Shabaab (the Youth) and Hizbul Islam (Party of Islam) mounted an increasingly successful insurgency against the TFG. Despite efforts by the TFG to placate these groups, including by establishing sharia law as state law, the two militias continued to oppose the new government. A third Islamic militia, which finalized a cooperation agreement with the TFG in March 2010, Ahlu Summa waa Jaama (ASWJ), also committed a small number of religious freedom violations.

PRIORITY RECOMMENDATIONS: The promotion of freedom of religion or belief is not adequately addressed in U.S.-Somalia policy, especially given the sectarian elements of the conflict and the increasing manifestations of radical Islam. USCIRF understands the emphasis on providing security assistance to the TFG, which addresses significant U.S. national security concerns by helping the TFG exert control over Somalia to attempt to govern the country. However, radical interpretations of Islam continue to perpetuate severe violations of religious freedom and related human rights, as well as turn Somalia into a safe haven for terrorists. To address this phenomenon, USCIRF recommends that the U.S. government increase efforts to promote freedom of religion or belief in Somalia through support of civil society organizations and engagement with Somali government officials, clerics, elders, and diaspora communities as well as increase assistance to develop an education and rule of law sector in Somalia. Additional recommendations for U.S. policy towards Somalia can be found at the end of this chapter.

Religious Freedom Conditions

Governing and Legal Environment

The TFG was formed in January and February of 2009, following the election of President Sheikh Sharif Ahmed, TFG Prime Minister Omar Abdirashid Ali Sharmarke, and the TFG parliament. President Sheikh Sharif was previously the leader of the Union of Islamic Courts (UIC), a group that ruled Somalia for a short period of time in 2006 before being ousted by U.S.-backed Ethiopian troops. Although considered unacceptable to the international community when he was the UIC leader (due to concerns about radical elements within that body), President Sheikh Sharif and the current iteration of the TFG are internationally recognized as the legitimate Somali government. By the end of the year, the TFG controlled only a small number of districts in Mogadishu and is reliant on a 5,300 strong African Union peacekeeping force for survival. In June, President Sheikh Sharif declared a state of emergency in the country and sought increased international support to strengthen the TFG's security forces.

The TFG is governed by a hybrid legal system based on the Transitional Federal Charter and the 1960 constitution. Despite the passage of the Charter in 2006, the 1960 constitution continues to have legal standing to address issues not found in the Charter, such as freedom of religion or belief. The constitution guarantees the rights to worship, discuss, and study one's religion of choice, although the Charter establishes Islam as the official state religion and proselytizing for any other religion is strictly prohibited. However, the lack of a functioning government and the TFG's limited control over the country make these provisions unenforceable and hence irrelevant at the present time.

The informal process for adjudicating disputes varies by region and relies on some combination of sharia, customary law, and the former Barre regime's penal code. On May 10, 2009, the TFG Parliament unanimously approved the implementation of sharia law nationwide. However, Somali officials have given little insight as to what sharia law would look like in practice. Agreement on sharia law will likely be difficult to achieve, given the differing opinions by Somali officials, opposition groups and clerics, as well as international partners. President Sheikh Sharif said sharia law will respect democracy, human rights, and women's rights, and that he would appoint legal experts to nullify differences between sharia and state law, so as to implement it "properly." The ongoing constitution drafting process will work through these challenges, although it is severely delayed and sharia law will be one of the last issues addressed.

Al-Shabaab

The vast majority of religious freedom abuses in Somalia were carried out by al-Shabaab (also known as the Harakat Shabaab al-Mujahidin, Shabaab, Mujahidin al-Shabaab Movement, Mujahideen Youth Movement, Mujahidin Youth Movement), which constitutes the greatest threat to the TFG. The goal of this extremist militia, which came to prominence as the military wing of the UIC in 2006, is to turn Somalia into an Islamic state, build a greater Somalia (incorporating regional areas with large ethnically-Somali populations such as Djibouti, the Ogaden region of Ethiopia, and the Northern Frontier District of Kenya), and spread its strict version of Islam throughout the region. The movement is opposed to democracy, desiring a theocracy, and has assassinated its opponents. For many al-Shabaab and other extremist leaders, the formation of a Somali Islamic state has been a goal for more than 20 years. A number of movement leaders reportedly received military training in the 1990s in Afghanistan and fought with the Somalia-based militia al-Ittihad al-Islami (AIAI), which had loose ties with al-Qaeda and was designated a foreign terrorist organization by the United States. Al-Shabaab announced a formal alliance with al-Qaeda in February 2010 although questions still remain about the extent of financial and military support and coordination between the two groups. According to the UN Monitoring Group on Somalia, al-Shabaab is financed by donations from the Somali diaspora, other jihad groups, and sources in Eritrea and the Middle East. Control over several ports along the southern coast also provides the movement with significant resources.

Al-Shabaab's ideologues are believed to be a small number of Somalis and an unknown number of foreigners, primarily from the Somali diaspora in the United States, Canada, and Europe, but also from South Asia. A large number of al-Shabaab soldiers are either unemployed youth who were forcefully recruited or bribed into joining into the militia, mercenaries, or individuals indoctrinated and/or recruited from mosque study circles or

other electronic media that popularize martyrdom. The militia also incorporates clan militias and various business leaders and their militias.

Despite having a central decision-making council, or *shura*, al-Shabaab is highly fractured along ideological and clan lines, and there were several leadership changes during the past year. Reports indicate there are divisions over the role of foreign fighters, use of suicide bombers, and political dialogue with the TFG. Al-Shabaab is divided into regional units, with regional leaders who are given flexibility in administering their territories. Some leaders employ a more hard-line interpretation of sharia, implementing their agenda by violent means, dispensing punishments such as stoning for adultery and amputations for theft, and forbidding the presence of international humanitarian organizations. Other more "moderate" al-Shabaab leaders favor engaging in talks with rivals and the local community to maintain popular support. Despite these divisions, the movement is able to overcome internal disagreements to remain militarily unified against the TFG. Reports indicate that foreigners in the movement may now be making decisions.

Sharia Law

Although different al-Shabaab administrations vary somewhat, overall the militia continues to pursue its goal to turn Somalia into an Islamic state, stop "un-Islamic" behavior, and to "cleanse" Somali society of so-called "moral pollution."

Some al-Shabaab administrations have implemented hudood punishments for adultery and theft. Such punishments are carried out without minimum due process guarantees or adequate legal proceedings and constitute torture. Most amputations and stonings occurred along the southern coast, where the most radical of al-Shabaab's leadership is located. Witnesses report they were forced to observe the punishments. On November 18, 2009 in Kismayo, a woman accused of adultery was stoned to death after she gave birth to her baby. The man with whom she was accused of having an adulterous affair was also tortured to death by stoning. Also in November 2009, in the southern coastal town of Merka, a man accused of rape was stoned to death. Another man accused of rape and murder was stoned to death northwest of Mogadishu in Wanlaweyn in June 2009. In January 2010 in Mogadishu, al-Shabaab amputated the right hand of a man accused of stealing cell phones. In October 2009, three boys accused of theft in Kismayo had limbs amputated. Similar amputations were held throughout the year.

Persons deemed to have deviated from "accepted" behavior are punished through detentions and floggings. Women are required to wear the veil and socks, and in October, al-Shabaab members flogged more than 200 women for wearing brassieres. Men are forbidden to shave their beards or wear their pants below their ankles; those deemed as having "inappropriate hairstyles" have had their heads forcibly shaved. The militia forcibly removed gold and silver teeth. It closed cinemas, set fire to markets selling the mild stimulant khat, forbade cell phone ringtones unless they were verses from the Koran, forbade all forms of smoking, banned videogames, dancing at weddings, watching and in some places playing soccer, and listening to non-Islamic music. Radio stations nationwide were ordered to close or play only the call for prayer. Businesses are ordered to close during prayer times, when all residents are required to be praying. Public transporters in Mogadishu and Kismayo must segregate passengers by sex, with male passengers sitting in the front and female passengers in the rear seats.

Attacks on Sufis

The majority of Somalis follow the Sufi tradition. Islam arrived in Somalia at the time of the Prophet Mohammed when several of his followers fled Mecca and sought refuge in the Horn of Africa. Sufi orders and rituals play a significant role in Somalia Islam, principally the Qadiriyyah, Ahmadiyah-Idrisiyah, and Salihiyah orders. Observance of Islam is stronger in the more settled regions in Southern Somalia, as opposed to the more nomadic areas in the North.

Al-Shabaab views Sufis as apostates, and attacked the Sufi religion and assaulted its

followers, including destroying and closing Sufi mosques and attacking and killing Sufi clerics, including those who speak out against al-Shabaab and its interpretation of Islam. In January 2010, al-Shabaab was accused of attempting to assassinate a Somaliland Sufi cleric who was highly critical of the group's use of suicide bombings and interpretation of Islam. Two Sufi clerics from Mogadishu were kidnapped in June 2009. Al-Shabaab members kidnapped another Sufi cleric from a refugee camp in Kenya. The State Department reports that on March 19, 2009 two Sufi clerics in Balad were beheaded by al-Shabaab.

Within the Somali Sufi tradition, Somali saints are venerated, and their tombs are considered national shrines that are often highly decorated. Religious ceremonies, including annual pilgrimages, frequently occur at these sites. Al-Shabaab has deemed it "un-Islamic" to honor the shrines of sheiks, accusing those who do of being idol worshippers, blasphemous, or heretics. In 2009 and 2010, al-Shabaab engaged in a campaign of desecrating gravesites, including those of some of the most revered religious leaders in Somalia. Most recently, despite large public protests, in March 2010 al-Shabaab destroyed the graves of seven Sufi clerics in Mogadishu. In March 2009, in the southern coastal town of Brave, the militia destroyed the graves of five saints and removed their remains and told grave caretakers that if they return to work they will be arrested. During the following two months, al-Shabaab destroyed more than 100 gravesites, almost 100 near Kismayo. Similar actions have been taken in the south-central Somalia towns of Bardhere and Biyoley, where the remains of Sheik Aweys a-Qadiri, a founder of one of the Somali Sufi orders, are buried.

Additionally, al-Shabaab has stopped Sufis from participating in religious rituals and pilgrimages, including most recently on December 6, 2009 when militia members attacked a mosque in Basra where people were gathering for a pilgrimage. Seven people, including two al-Shabaab members, were killed in the ensuing fight. On September 21, 2009, two clerics from a pro-TFG militia were killed when al-Shabaab opened fire on a group gathered for Eid prayers. The militia has also officially banned commemoration of Maulid (the Prophet's birth) celebrations, stating that some of the traditions that take place during these celebrations are "un-Islamic." The State Department reports that in 2009, two people were killed when al-Shabaab raided a mosque in Bardhere where worshippers congregated for the commemoration. In another location on the same day, 50 Sufi clerics were arrested for their role in the celebrations; they were released after public protest.

Killings of Christians/Converts

The small, extremely quiet, and low-profile Christian and Christian convert community in Somalia is also under attack by al-Shabaab. Although conversion is not illegal in Somali, it is not accepted socially. The TFG Charter has banned proselytization. The few remaining Christians worship secretly in house churches. Reportedly, more than a dozen Christians were killed during this reporting period. Christians in Somalia and those who have sought refuge in neighboring countries report receiving death threats from al-Shabaab.

One of the most gruesome killings of Christians was the February 2009 beheading of two boys in Yonday, west of Kismayo, because their father refused to divulge information about members of their church. After the father fled the town, al-Shabaab soldiers took his three sons from their mother, beheaded two, and sent the third boy to warn the father they were looking for him. In another incident, on July 27, 2009 in Merka, four Christian converts were beheaded after they refused to renounce their faith. In November 2008, two Italian nuns were kidnapped from Kenya by al-Shabaab and held in Mogadishu until they were freed in February 2009.

Hizbul Islam

The other Islamic militia opposed to the TFG that engaged in religious freedom violations during this reporting period is Hizbul Islam. This umbrella group, formed in April 2009, was composed of four militias: Alliance for the Re-Liberation of Somalia –

Asmara Wing (ARS-A), Somali Islamic Front, Raas Kaambooni Forces, and Anoole Forces. Each militia is structured along clan lines. Hizbul Islam's leader, Sheik Hassan Dahir Aweys, has been designated a terrorist by the United States for his activities with the 1990s AIAI. Hizbul Islam has a nationalist focus, seeking a unified, Islamic Somali state. Hizbul Islam opposes the TFG because of its backing by Ethiopia and Western powers, believing that these outside influences will prevent the TFG from fully implementing sharia law. It receives support from Eritrea.

Hizbul Islam is less organized and coordinated than al-Shabaab. According to the UN Monitoring Group on Somalia, it had "all but disintegrated by the end of 2009" due to internal division; however individual leaders continue to exert control over areas of central Somalia. For part of 2009, Hizbul Islam and al-Shabaab were united in their fight against the TFG, but a falling out in Kismayo at the end of September left the two groups fighting each other. During the fight, according to the UN Monitoring Group, key members of the Hizbul Islam alliance either remained neutral or joined with al-Shabaab.

Also like al-Shabaab, Hizbul Islam implements sharia law in the territories under its control, although with less frequency. Women are ordered to wear the veil and businessmen are required to close their shops at the time of praying. In July 2009, Hizbul Islam banned *Istun*, (the traditional ceremony) and later arrested nine clerics for violating the ban.

Ahlu Sunna waa Jamma

Ahlu Sunna waa Jamma (ASWJ) was created in 1991 as an apolitical organization to represent the practice of Sufi Islam in Somalia in response to the growth of radical Islam and the activities of AIAI. ASWJ is the only group thus far to effectively battle al-Shabaab, despite lacking a unified chain of command and having a fractured structure. Following the desecration of Sufi gravesites and killing of Sufi clerics in 2008, ASWJ took up arms to fight al-Shabaab's strict interpretation of Islam.

ASWJ is composed of Sufi clerics and various clan militias, and controls large parts of central Somalia, including Galguduud, the Middle Shabelle regions, Gedo, and most recently Hiraan. ASWJ signed an agreement with the TFG in March to integrate its forces with TFG security forces and to take up five ministerial posts in the TFG cabinet. Some ASWJ parties objected to the agreement. ASWJ receives financial support and training from Ethiopia.

ASWJ also wants to implement sharia law nationwide, but according to its leadership, their version would only be implemented by a state, not militias, and would take into account traditional Somali Islam and "mitigating circumstances." However, even in areas under ASWJ administration, there have been some restrictions on behavior. In November 2009, the Abudwaq district administration banned the watching of films, stating that they would lead people in "wrong and evil deeds." In December 2009, an ASWJ administration forbade the wearing of veils, calling them a security risk.

Somaliland and Puntland

In the north, the two regional governments of the self-declared "Republic of Somaliland" and Puntland are governed by their own constitutions. Both establish Islam as the official religion of their regions, prohibit promotion of another religion (though the right to study and discuss one's religion is permitted), prohibit and set penalties for conversion from Islam, and require presidential candidates be Muslim.

The Somaliland Constitution requires Islamic education and mandates that laws must derive from and not contradict Islam. Religious schools and places of worship in Somaliland must be approved by the Ministry of Religion. Christian-based NGOs are free to operate so long as they refrain from proselytizing.

The Puntland Constitution, established in May 2009, provides non-Muslims the freedom

to practice their religion, yet Puntland officials closely monitor religion and only the Shaf'iyyah Sufi order is allowed to practice publicly. Schools and places of worship must receive permission for activities from the Ministry of Justice and Religious Affairs. Permission for activities espousing Shaf'iyyah is frequently provided.

Religious freedom violations by both state and non-state actors occurred in these two regions in this reporting period. Many of these events were the result of spillover violence by al-Shabaab, which has cells in the two regions. In September 2009, an al-Shabaab leader stated that the militia planned to wage "jihad battles" in Puntland and Somaliland. In Somaliland, however, a border official beat a pastor trying to enter Somaliland with a Bible and other Christian literature in February 2009.

In Puntland, all reported violations were by non-state actors. In October 2009, a Somali Christian who refused to wear the veil was killed. In August, unknown masked gunmen killed five men from a Pakistani Tabliq group in a mosque. There were a number of killings in Puntland attributed to al-Shabaab in which government officials, including the security minister, police officers, and parliamentarian Ibrahim Elmi Warsame, were murdered. Warsame had sought reforms to address the growth of radical Islam in Puntland, including requiring the registration of religious schools. There also was an assassination attempt on a judge who had recently sentenced five al-Shabaab suspects to five to 10 years imprisonment. On February 8, 2010, al-Shabaab was accused of attempting to kill a police force commander and a mayor.

Humanitarian crisis

Continuing and escalating violence in Somalia has created a humanitarian crisis that is among the worst in the world. Half of the population, or more than three million people, is dependent on international assistance for food. There are 1.4 million internally displaced persons (IDPs) and 560,000 refugees in the region.

Attacks on aid workers and low funding levels make it difficult for humanitarian and refugee assistance organizations to provide adequate aid to IDPs within Somalia and to refugees in neighboring countries. The population of Kenya's Dadaab refugee camp is three times its capacity; built in 1990 to hold 90,000 refugees, the camp currently holds almost 270,000. An expected increase in violence in Mogadishu in 2010 will make assistance resources scarcer.

U.S. Policy

The United States has had no embassy or on-the-ground presence in Somalia since 1992. Outreach to Somali TFG officials, and operation of U.S. government programs, is conducted through a Somalia unit at the U.S. Embassy in Nairobi, Kenya. Given the poor security situation in the country, U.S. government officials are prohibited from traveling to Somalia, including to the relatively stable autonomous areas of Somaliland and Puntland.

The U.S. government recognizes and supports the TFG. In a July 2009 meeting with President Sheikh Sharif, Secretary of State Clinton pledged to provide military and diplomatic support and called the TFG Somalia's "best hope" for stability not only for Somalia, but also for the Horn of Africa.

In June 2009, the State Department announced it was providing cash, ammunition, and equipment to the TFG, as well as training TFG security officers in neighboring Djibouti. The UN Monitoring Group on Somalia reports that the U.S. government contributed a total of 94 tons of weapons and ammunition and \$2 million in assistance to the TFG. The U.S. government also supports the African Union peacekeeping force in Mogadishu, with \$185 million in funds the past two years. In the administration's budget request for fiscal year 2010, peacekeeping operations receive the largest share, at an estimated \$82 million.

The security assistance programs while controversial, seek to further the U.S. government's priorities of eliminating terrorist threats, supporting peace and stability, and rebuilding law enforcement institutions in Somalia. Additionally, in this reporting period both the UN Monitoring Group on Somalia and Amnesty International reported on the lack of professionalization among the security forces. Because many officers are not properly paid or fed, reports surfaced of many selling their weapons and ammunition to militias, including al-Shabaab.

The United States also funds efforts to increase livelihood opportunities for young Somali men, support for disarmament, demobilization, and reintegration activities, support local peace building efforts, governance, and democracy building programs. These programs include: capacity-building and training programs for TFG officials; supporting the constitution drafting process, the preparations for national elections scheduled for 2011, and efforts to build local and national judicial systems; and funding human rights awareness programs by indigenous civil society organizations. In fiscal year 2010, the administration requested only \$12.5 million for these programs. The United States also funds programs to increase democratization, the rule of law, and economic development in Somaliland and Puntland. Funding for these programs is within the overall budget for Somalia.

Finally, the U.S. government significantly contributes to appeals addressing the humanitarian crisis in Somalia. In fiscal year 2009, it donated \$174 million in humanitarian assistance, including \$150 million in food aid. In 2009 there were reports, confirmed by the UN Monitoring Group on Somalia, that humanitarian organizations operating in territories controlled by al-Shabaab or other opposition groups were required to pay "taxes" or forced to surrender assistance goods at checkpoints. Department of Treasury regulations prohibit U.S. funds from going to terrorists or terrorist organizations. Concerned by these reports, the U.S. government withheld some funding and worked with relief groups to temporarily suspend non-food related programs, so that they could monitor and review operations to ensure that they abided by U.S. regulations and no U.S. assistance reached al-Shabaab.

Recommendations

USCIRF recommends that the U.S. government address human rights violations, increasing religious extremism and the humanitarian situation in Somalia and in Dadaab refugee camps in neighboring Kenya and take prompt measures to promote good governance, reconciliation, and respect for universal human rights, including freedom of religion or belief.

I. Improving Human Rights, including Freedom of Religion or Belief

The U.S. government should:

- press the TFG not to tolerate human rights abuses by security personnel and to hold perpetrators accountable;
- ensure that the new constitution incorporates international human rights standards, including freedom of religion or belief as defined in Article 18 of the Universal Declaration of Human Rights;
- fund rule of law programs by the UN and non-governmental organizations in Somalia, Somaliland, and Puntland to establish a legal system the respects international legal standards, including freedom of religion or belief;
- 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, including freedom of religion or belief;

- fund non-governmental organizations that operate education programs in Somalia, Somaliland, Puntland, and in Dadaab refugee camps, ensuring that such programs include lessons on the promotion of freedom of religion or belief, tolerance, and human rights to limit religious extremism;
- increase International Visitor Program opportunities for Somalis from Somalia and the diaspora to learn about human rights, religious freedom, and democracy;
- encourage Radio Mogadishu and Voice of America to increase coverage of issues related to freedom of religion or belief and religious tolerance;
- support human rights training and monitoring programs by the UN Office of the High Commissioner for Human Rights;
- support livelihood and education opportunities for young Somali men to discourage them from joining militias and being co-opted by religious extremism; and
- assess existing U.S. training programs involving Somali security officials as to whether or not they adequately include universal human rights and religious freedom standards and ensure the findings are publicly reported in Congress.

II. Ensuring High-Level and Consistent U.S. and International Engagement in Somalia

The U.S. government should:

- appoint a Special Envoy to the Horn of Africa region to ensure that Somalia receives attention at the highest levels of government and sustained U.S. engagement to address security, terrorism, governance, human rights, humanitarian, and piracy concerns; support grassroots and international peace and reconciliation efforts; and work with regional partners to address the regional aspects of the problem;
- increase engagement by U.S. Department of State and other relevant agencies with the Somali diaspora community in the United States on human rights, freedom of religion or belief, rule of law, and good governance;
- encourage international partners to engage with Somali diaspora communities in their countries on human rights, freedom of religion or belief, rule of law, and good governance; and
- encourage international partners, including the UN, to increase support and funding for programs to promote human rights, reconciliation, and security in Somalia.

III. Addressing the Humanitarian Situation

The U.S. government should:

- press Kenya to approve land for the building of a fourth refugee camp site in Dadaab, to address the overcrowded conditions in the current camps;
- increase support for UN and non-governmental agencies providing elementary and secondary education and humanitarian assistance inside Somalia; and
- increase funding to UNHCR, and encourage international partners to do likewise, to provide humanitarian assistance in the Dadaab refugee camps.

