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2018 Report on International Religious Freedom: Kenya

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, continued to be the target of government-directed extrajudicial killings, enforced disappearances, torture, arbitrary arrest, and detention. The government denied directing such actions. The Registrar of Societies did not register any new religious organizations pending completion of revised Religious Societies Rules, which had not been finalized at year's end. According to the Alliance of Registered Churches & Ministries Founders, more than 4,400 religious group applications were pending as of the start of the year. The High Court in Nairobi overturned a decision to suspend the registration of the Atheists in Kenya Society (AIK), following 2017 court hearings regarding the attorney general's suspension of the group's registration. A 2016 appeal by the Methodist Church opposing the wearing of hijabs as part of school uniforms remained pending as of the end of the year. In May filings to the Supreme Court, the attorney general and Teachers Service Commission continued to support the right to wear a hijab in school.

The Somalia-based terrorist group Harakat al-Shabaab al-Mujahideen (al-Shabaab) again carried out attacks in Mandera, Wajir, Garissa, and Lamu Counties and said the group had targeted non-Muslims because of their faith. In September al-Shabaab reportedly stopped a bus in Lamu County and killed two Christian travelers. In October a group of residents in Bungale, Magarini Sub County, burned and demolished a Good News International Ministries church. The government reported that local residents took action following claims the pastor was indoctrinating local residents with false Christian teachings promoting extremism among followers. A police investigation continued at year's end. In June the Kenya National Union of Teachers presented a report to the Senate Education Committee detailing religious and gender discrimination against nonlocal teachers in Mandera, Wajir, and Garissa Counties. Muslim minority groups, particularly those of Somali descent, reported continued harassment by non-Muslims. There were again reports of religiously motivated threats of societal violence and intolerance, such as members of Muslim communities threatening individuals who

converted from Islam to Christianity. According to religious leaders, some Muslim youths responded to alleged abuses by non-Muslim members of the police who came from other regions by vandalizing properties of local Christians.

U.S. embassy officials 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 and civic efforts to defuse political and ethnic tensions.

Section I. Religious Demography

The U.S. government estimates the total population at 48.4 million (July 2018 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 Baha'is. Much of the remaining 4-5 percent of the population adheres to various traditional religious beliefs. Non-evangelical 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 (e.g., Somali and Mijikenda ethnic groups) are often linked. The Dadaab refugee camps are home to approximately 209,000 refugees and asylum seekers, most of whom are ethnic Somali Muslims. The Kakuma refugee camp is home to approximately 186,000 refugees, 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. The constitution 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. The constitution also 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.

Although there is no penal law referring to blasphemy, a section of the penal code states that destroying, damaging, or defiling any place of worship or object held sacred with the intention of insulting the religion of any class of persons is a misdemeanor. This offense carries a penalty of a fine or up to two years in prison but is reportedly rarely prosecuted using this law. Crimes against church property are more likely to be treated as malicious destruction of property, which is also a misdemeanor.

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

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 are not required to offer both.

The law establishes fees for multiple steps in the marriage process, which apply to all marriages, religious or secular. All officiants are required to purchase an annual license, and all public marriage venues must be registered.

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

Human rights groups and prominent Muslim leaders and religious organizations stated the government’s antiterrorism activities disproportionately impacted Muslims, especially ethnic Somalis and particularly in areas along the Somalia border. The government’s actions reportedly included extrajudicial killing, torture and forced interrogation, arbitrary arrest, detention without trial, and denial of freedom of assembly and worship.

Prosecution was pending at year’s end of Christian televangelist Paul Makenzi of the Good News International Ministries and his wife Joyce Mwikamba, whom, in October 2017 in the coastal city of Malindi in Kilifi County, authorities charged with radicalizing children by teaching them to reject medical care, enticing them to drop out of school, and teaching them formal education is evil. According to multiple press reports, police raided Makenzi’s church and rescued children who had abandoned their homes and schools to follow Makenzi’s ministry.

The Registrar of Societies continued not to register any new religious organizations pending completion of revised Religious Societies Rules, which had not been finalized at year's end. According to the Alliance of Registered Churches & Ministries Founders, more than 4,400 religious group applications were pending as of the start of the year. In 2016 the government withdrew proposed Religious Societies Rules in response to religious leaders' objections after a meeting between President Uhuru Kenyatta and religious leaders. Religious leaders reported the attorney general proposed the rules to make leaders of religious organizations more accountable for financial dealings and radical or violent teachings. The government agreed to consult religious leaders and the public and allow them to provide input on a new draft.

In January the High Court in Nairobi overturned the registration suspension of the AIK imposed after court hearings in 2017. The attorney general suspended AIK's registration due to questions surrounding the issue of the group's constitutional rights. Opponents of AIK's registration argued AIK's beliefs were not consistent with the constitution, stating the constitution “recognizes Kenya as a country that believes in God.”

In July the Anglican Church of Kenya (ACK) reinstated three priests who had been dismissed in 2015 on suspicion of homosexual acts. Shortly after their dismissal, an Employment and Labor Relations judge ordered the Church to reinstate the priests, citing a lack of any evidentiary findings against them. The ACK reinstated the priests after a court ordered the Church provide back pay and held the presiding bishop in contempt for having failed to adhere to the 2015 ruling. Protesters, however, prevented the priests from returning to work at their parishes.

An appeal by the Methodist Church was still pending at year's end regarding a 2016 ruling by the Court of Appeal that Muslim female students be allowed to wear a hijab as part of their school uniforms. The ruling overturned a 2015 High Court verdict that declared hijabs were discriminatory because they created disparity among students. In filings to the Supreme Court in September, the attorney general and Teachers Service Commission continued to support the right to wear the hijab in schools. Religious leaders reported public schools complied with the Court of Appeals' ruling, while some private schools – particularly religious ones – continued to insist students remove the hijab. Schools applied the ruling to 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.

Muslim leaders continued to state that police often linked the whole Muslim community to al-Shabaab. The Independent Policing Oversight Authority, a civilian government body that investigates police misconduct, reported numerous complaints from predominantly Muslim communities, particularly in the Eastleigh neighborhood of Nairobi, regarding intimidation, arbitrary arrest, and extortion by police. Some complainants stated police accused them of being members of al-Shabaab.

Religious leaders reported the government sought to circumvent a legal prohibition on taxing religious organizations by applying certain regulations to both religious and secular institutions, such as requiring licensing fees for marriage officiants and venues for large social meetings. Religious leaders stated the fee regulations were unevenly enforced, although not in a discriminatory manner.

Section III. Status of Societal Respect for Religious Freedom

Authorities received more than 150 reports of terrorist attacks in the northeast of the country bordering Somalia by al-Shabaab and its sympathizers that targeted non-Muslims. In one such attack in September, al-Shabaab reportedly ordered travelers to disembark a bus in Lamu County, then identified and killed the two Christians before letting the other travelers proceed.

On February 23, al-Shabaab killed three Christian teachers near Wajir Town. Reports indicated that, following the attack, more than 60 teachers fled Wajir and neighboring Mandera. In June the Kenya National Union of Teachers presented a report to the Senate Education Committee detailing the plight of nonlocal teachers in Mandera, Wajir, and Garissa Counties. According to the report, female teachers “suffered discrimination on the basis of race, sex, religion, conscience, belief, culture, dress, and language,” including being forced to wear *deeras* (long dresses) and hijabs.

On January 24, media reported al-Shabaab militants raided a village in the Lamu region where they forced villagers to listen to “radical” preaching and hoisted a black flag at the deserted police station. The militants called upon all civilians to enroll their children in Arabic and Islamic education classes, causing many to flee the scene due to fear of violence. Many villagers fled the area, and a number of schools remained closed because of security concerns.

Al-Shabaab remained the focus of government antiterror and police efforts throughout the northeast and coastal region.

In October a group of residents in Bungale, Magarini Sub County of Kilifi County, reportedly burned down a house belonging to a pastor associated with the Malindi televangelist, Paul Makenzi. The group also demolished a Good News International Ministries church and residence belonging to Pastor Titus Katana, also linked to Makenzi. The group threatened to kill Katana and demanded he leave the area. Local government officials reported that residents took action following claims Makenzi was promoting extremism and indoctrinating followers with what they characterized as false Christian teachings that included opposition to formal education for children and rejection of modern medicine. A police investigation continued at year’s end.

Authorities continued to receive reports of threats of violence towards individuals based on religious attire and expressions of intolerance toward members of other faiths. Since religion and ethnicity are closely linked, authorities could not categorize many incidents as being based exclusively on religious identity.

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 terrorist attacks in recent years. Non-Muslims reportedly harassed or treated with suspicion persons of Somali origin, who were predominantly Muslim. Police officers often did not serve in their home regions, and therefore officers in some Muslim majority areas were largely non-Muslim. Religious leaders suggested, anecdotally, that some Muslim youths responded to reported police abuses by largely non-Muslim police forces by vandalizing properties of local Christians.

A two-year survey conducted by DevTech systems on indicators of violent extremism found that fundamental religious beliefs alone do not lead to violent extremism, but that violent extremists often manipulate or invoke religion and ethnic tensions to frame grievances, divide communities, and justify violence. When asked about the perceptions of ethnic and religious social cohesion, acceptance of identity-based grievances, and the use of violence to defend religious beliefs, 83 percent of respondents believed they could practice their religion freely. Reports of discrimination were highest in Nairobi at 24 percent. Nationally, 84 percent of respondents said diversity made the country a better place to live, and 25 percent said violence was always justified in defending one's religion or culture.

Religious leaders representing interfaith groups, including the Anglican, Catholic, evangelical Protestant, Muslim, and Hindu communities, engaged with political parties and the Independent Electoral Boundaries Commission in the national reconciliation process following violent 2017 presidential elections. Representatives of a number of religious organizations participated in an October National Dialogue Reference Group conference to promote national healing and identify social cohesion challenges.

Section IV. U.S. Government Policy and Engagement

U.S. embassy officials emphasized the importance of respecting religious freedom in meetings with government officials, including senior police officials and local governments in the coastal region, especially emphasizing the role of interfaith dialogue in stemming religious intolerance and countering religiously based violent extremism.

The Ambassador and embassy staff met frequently with religious leaders and groups, including the Inter-Religious Council of Kenya, Supreme Council of Kenya Muslims, Coast Interfaith Council of Clerics, Interfaith Council of Kenya, Council of Imams and Preachers of Kenya, Hindu Council of Kenya, National Muslim Leaders Forum, Alliance of Registered Churches & Ministries Founders, and National Council of Churches of Kenya. Topics of discussion included the importance of religious groups in countering religiously based extremism, seeking guidance from religious leaders on human rights issues, and working together to resolve the country's electoral issues.

U.S. embassy officials supported interfaith efforts to defuse political and ethnic tensions, including efforts to resolve disputes related to the preparations, conduct, and outcome of the national elections.

The Ambassador met periodically throughout the year with Muslim leaders in Nairobi and the coastal region. He hosted iftars during Ramadan with Muslim, Christian, and Hindu leaders in Nairobi, and a senior embassy official hosted an all-women’s iftar that included representatives of all faiths. The embassy also assisted efforts to promote intrafaith dialogue on freedom and tolerance within the Muslim community.

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 rather than a source of strife and division.

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