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USDOS – US Department of State

2019 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 again did not register any new religious organizations pending completion of revised Religious Societies Rules, which had not been finalized at year's end, and approximately 4,400 religious group applications remained pending. In January the Supreme Court overturned a lower court decision that required a publicly funded school to allow Muslim students to wear the hijab, citing faults in the petition process but encouraging the parties to file a new suit using correct procedures so the court could rule on the merits of the case. The judgment directed the board of the school to provide exemptions for students to wear clothing in accordance with their religious beliefs, but some Muslims interpreted the ruling as permission for officials to ban the hijab. A court ruled in September that a secondary school broke the law by asking a student to shave her dreadlocks, stating that Rastafarianism is a religion.

The Somalia-based terrorist group Harakat al-Shabaab al-Mujahideen (al-Shabaab) again carried out attacks in Mandera, Wajir, Garissa, and Lamu Counties in the northeastern part of the country and said the group had targeted non-Muslims because of their faith. On February 16, media reported that al-Shabaab killed three Christian teachers at a primary school in Wajir County, a predominantly Muslim region. 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. In February a group of men believed to be Somali Muslims reportedly beat and raped a Somali mother of four in Dadaab refugee camp because she converted to Christianity. In April a pastor in Garissa, who ministered to former Muslims in an underground church, was reportedly beaten unconscious by a group of Muslims and hospitalized. Muslim minority groups, particularly those of Somali descent, reported continued harassment by non-Muslims. Some religious and political leaders, however, stated tolerance improved during the year, citing extensive interfaith efforts to build peace between communities. Prominent religious leaders representing the main faiths in the country issued a joint statement condemning the January 15 attack at the Dusit D2 hotel in Nairobi by five al-Shabaab terrorists that killed 21 persons, including one U.S. citizen. Unlike the 2013 terrorist attack at Westgate Mall, there were few reports of reprisal attacks against Muslim communities. A survey by the Inter-Religious Council of Kenya (IRCK), a national interfaith umbrella group, examined the extent of freedom of religion and belief in two coastal counties, Mombasa and Kwale. The study targeted youth, community members, teachers, women, religious leaders, government officials, and peace organizations. Findings indicated the perceived level of religious tolerance was 37.3 percent, and the perceived level of government intolerance to religions was 46.4 percent.

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 related to religion. In June embassy representatives participated in an interfaith iftar as part of an embassy-sponsored program to support efforts by IRCK to strengthen understanding, respect, and acceptance within multifait communities in Nairobi and Mombasa Counties. In September the Ambassador hosted an interfaith roundtable to build relationships with religious leaders and discuss efforts to improve tolerance and inclusion. The embassy hosted roundtables and other events that brought individuals of diverse faiths together to discuss religious tolerance and build mutual understanding.

Section I. Religious Demography

The U.S. government estimates the total population at 49.1 million (midyear 2019 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. Nonevangelical 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. There are approximately 217,000 refugees and asylum seekers in the Dadaab refugee camps, mostly ethnic Somali Muslims. The Kakuma refugee camp has approximately 193,000 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, 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. Officiants must be appointed by a registered religious group to conduct marriages in order to purchase the license.

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 continued to state the government’s antiterrorism activities disproportionately impacted Muslims, especially ethnic Somalis and particularly in areas along the Somalia border. According to these groups, 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. The government denied directing such actions. The government took steps, described by human rights organizations as limited and uneven, to address cases of alleged unlawful killings by security force members. The governmental Independent Policing Oversight Authority (IPOA), established to provide civilian oversight of the work of police, continued to refer cases of police misconduct to the Office of the Director of Public Prosecution for prosecution.

In August Kenya Defense Forces personnel killed ethnic Somali Muslim Abdullahi Kasim Yusuf, allegedly after he entered a Garissa military camp. The death led to local protests, and human rights defenders in the area called for an investigation, alleging other abuses by security forces in the region and stating there had been little accountability. In September security officers shot and killed two Muslims in Mombasa and Kwale whom they alleged were connected to terrorism and criminal activities. The men’s relatives and the NGO Muslims for Human Rights said the men were victims of extrajudicial killings and called for IPOA to investigate.

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, and approximately 4,400 religious group applications remained pending.

In January the Supreme Court overturned on procedural grounds a lower court decision that required a publicly funded school in Isiolo County to allow Muslim students to wear the hijab, citing faults in the petition process. While the court’s decision included language recognizing the importance of accommodating religious dress in schools, some Muslims interpreted the ruling as permission for officials to ban the hijab. The court invited interested parties to file a new lawsuit following correct procedures so that it could rule on the merits of the case. The decision further directed the board of the school involved in the original petition to consult with parents and provide exemptions for students to wear clothing in accordance with their religious beliefs. The court also urged the secretary for education to establish new guidelines to better protect religious freedom in schools. In public statements, the Supreme Council of Kenya Muslims highlighted what it called positive messages in the court’s ruling in what observers stated was an effort to defuse anger in the Muslim community.

The High Court ruled in September that a secondary school broke the law by asking a student to shave her dreadlocks, stating they were a manifestation of her religious beliefs as a member of the Rastafarian religion. The court ruling contained a permanent injunction restraining the school’s administration from interfering with the student’s education based on her religious beliefs, specifically mentioning her dreadlocks. The school had previously expelled the student for wearing her dreadlocks in a turban, after which her family sought redress and the court in January ordered the school to allow her to return pending a verdict in the case.

Christian televangelist Paul Makenzi of the Good News International Ministries, who was arrested in 2017 with his wife Joyce Mwikamba and charged with radicalizing children in Malindi, remained free on bail and resumed preaching while awaiting a court ruling on his case.

Muslim leaders continued to state that police often linked the whole Muslim community to al-Shabaab. IPOA 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.

Section III. Status of Societal Respect for Religious Freedom

The Somalia-based terrorist group al-Shabaab again carried out attacks in Mandera, Wajir, Garissa, and Lamu Counties in the northeastern part of the country and said the group had targeted non-Muslims because of their faith. Authorities received numerous reports of terrorist attacks in the northeast of the country bordering Somalia by al-Shabaab and its sympathizers that targeted non-Muslims. On February 16, media reported that al-Shabaab killed three Christian teachers at a primary school in Wajir County, a predominantly Muslim region. Al-Shabaab remained the focus of government antiterror and police efforts throughout the northeast and coastal region.

In April a group of men believed to be Somali Muslims, according to Christian media, reportedly beat unconscious a pastor in Garissa who ministered to former Muslims in an underground church. Following his hospitalization, media reported the pastor moved with his family to a safer location.

In August a group of Muslims reportedly prevented an attack against Christians in the northern part of the country. According to Christian media, individuals affiliated with al-Shabaab planned to attack Christians working at a construction site for a new hospital in Kutulo. Muslims who heard of the planned attack went to the site to warn Christian workers to flee and confronted the gunmen when they arrived. The attackers reportedly opened fire, but there were no injuries.

According to NGO sources, some Muslim community leaders and their families were threatened with violence or death, especially individuals who had converted from Islam to Christianity and those of Somali ethnic origin. In February, according to Christian media, Somali Muslims beat and raped a Somali mother of four in Dadaab refugee camp because she converted to Christianity. They reportedly threatened her for more than a year to return to Islam.

Some interreligious NGOs and political leaders said religious tensions were not as high as in previous years, citing extensive interfaith efforts to build peace between communities. For example, the national interfaith umbrella group IRCK implemented several programs to promote interfaith acceptance in diverse communities. In several instances, national religious leaders representing the IRCK used their influence to help resolve violent conflicts, particularly among youths. Other community-level religious leaders came together to learn about each other’s faiths. Following the January 15 al-Shabaab attack at the Dusit D2 hotel in Nairobi that left 21 persons dead, including one American, Muslim, Catholic, Anglican, Pentecostal, and other religious leaders condemned the attack in a joint press release that conveyed a united stance against terrorism and appealed for peace. Threats of reprisal against Muslim communities after the incident appeared largely on social media, in contrast to the widespread physical attacks against Muslims that occurred after the 2013 Westgate terrorist attack.

There were reports that, in general, non-Muslims continued to harass or treat with suspicion persons of Somali origin, who are predominantly Muslim. Police officers often did not serve in their home regions, and therefore officers in some Muslim majority areas were largely non-Muslim.

A survey by IRCK examined the extent of freedom of religion and belief in two coastal counties, Mombasa and Kwale. The study targeted youth, community members, teachers, women, religious leaders, government officials, and peace organizations. Findings indicated the perceived level of religious tolerance was 37.3 percent, and the perceived level of government intolerance to religions was 46.4 percent. Those surveyed cited extrajudicial killings

of suspects of terror activities as a primary driver of marginalization and intolerance. Most respondents, 56.9 percent, believed attacks on other religions were responsible for hatred between religious groups. Less than half, 41.2 percent, believed the government “treated religions well.”

In February the National Council of Churches of Kenya proposed constitutional changes to limit the role of *qadi* courts, triggering claims of intolerance by some Muslim organizations and causing a significant rift for much of the year. IRCK leadership finally resolved the issue through discussions and mediation.

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

Section IV. U.S. Government Policy and Engagement

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 stressing the role of interfaith dialogue in stemming religious intolerance and countering religiously based violent extremism. Embassy staff continued to engage senior officials to underscore the importance of addressing human rights abuses by security forces, including those limiting freedom of worship, and supported a number of programs to improve police accountability.

The Ambassador and embassy staff met frequently with religious leaders and groups, including the IRCK, 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 and seeking guidance from religious leaders on human rights issues.

The Ambassador hosted an interfaith roundtable in September to build relationships with national leaders from various faiths, including representatives of the Christian, Muslim, and Hindu faiths. Participants discussed building tolerance between and among faiths and the critical role religious leaders play in peacebuilding efforts. The Ambassador encouraged the religious leaders to counter the divisive and inflammatory rhetoric of politicians and focus on building bridges between ethnic and religious groups as the nation prepares for 2022 national elections.

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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