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2011 Report on International Religious Freedom - Kenya

Bureau of Democracy, Human Rights, and Labor
July 30, 2012

[Covers calendar year from 1 January 2011 to 31 December 2011]

Executive Summary

The constitution and other laws and policies protect religious freedom and, in practice, the government generally respected religious freedom. The government did not demonstrate a trend toward either improvement or deterioration in respect for and protection of the right to religious freedom. After government military forces entered Somalia in October and subsequent attacks inside Kenya, some of which the government linked to the Somali terrorist group al-Shabaab, some Muslims, particularly ethnic Somalis, complained of profiling by government security forces and targeting of Islamic nongovernmental organizations (NGOs).

There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Some Muslims have alleged that business and community leaders thwarted development efforts in predominantly Muslim areas. Some Christian leaders alleged that Christians were subject to discrimination in the historically Muslim areas of Coast and North Eastern provinces.

The U.S. embassy regularly discussed issues of religious freedom and inclusion with local and national religious leaders, such as the Supreme Council of Kenya Muslims, the Anglican archbishop of Kenya, civil society, and the government. The embassy urged religious leaders to engage in interfaith efforts that promoted continued commitment to religious freedom and to religious diversity as a source of strength.

Section I. Religious Demography

Approximately 80 percent of the population is Christian and approximately 10 percent is Muslim. Groups that constitute less than 1 percent of the population include Hindus, Sikhs, and Baha'is. Most of the remaining population follows various traditional religions. Among Christians, 58 percent are Protestant and 42 percent are Roman Catholic.

Section II. Status of Government Respect for Religious Freedom

Legal/Policy Framework

The constitution and other laws and policies protect religious freedom.

The constitution and the 1967 Kadhis' Courts Act establish a venue for the adjudication of certain types of civil cases based on Islamic law. The constitution adopted in 2010 provides for Kadhis' courts in situations where "all the parties profess the Muslim religion" in suits addressing "questions of Muslim law relating to personal status, marriage, divorce, or inheritance" and in which all the parties consent to the jurisdiction of the Kadhis' courts. However, the secular High Court has jurisdiction over civil or criminal proceedings, including those in the Kadhis' courts; any decision can be directly appealed to the High Court.

Some Christian groups argue that federally funded Kadhis' courts grant preferential treatment to Muslims. The National Council of Churches of Kenya filed a 2004 lawsuit contesting the legality of the Kadhis' courts, which were recognized under the 1969 constitution. In a May 2010 ruling, the constitutional court ruled that the Kadhis' courts were unconstitutional. The ruling was superseded by the passage of the new constitution, which again specified the establishment of Kadhis' courts.

The Ministry of Information and Communications routinely approved regional radio and television broadcast licenses for Christian and Muslim groups. The ministry has not approved the petition of the Catholic Church for a license for a national frequency. The ministry has only granted the government-owned Kenya Broadcasting Corporation such a license.

The government requires new religious organizations to register with the Registrar of Societies, which reports to the Office of the Attorney General. The government allows indigenous and traditional religious groups to register, although many choose not to. After registration, religious groups may apply for tax-exempt status, including exemption from paying duty on imported goods.

Practicing witchcraft with intent to cause fear, annoyance, or injury in mind, person, or property is a criminal offense under colonial-era laws. However, the government generally prosecuted persons for this offense only in conjunction with some other charge, such as murder, or to preempt vigilante action against those perceived to be practicing witchcraft.

The government observes the following religious holidays as national holidays: Good Friday, Easter Monday, Eid al-Fitr, Christmas, and Diwali.

Government Practices

There were no reports of abuses of religious freedom.

The government continued to restrict the activities of Mungiki, a movement formed 20 years ago among ethnic Kikuyu as a traditional religious group. The group is outlawed and the government has frequently accused it of acting as a criminal network, including involvement in gang activities.

When registering with the Registrar of Societies, religious groups generally received equal treatment from the government; however, some smaller groups found it difficult to register when the government viewed them as an offshoot of a larger religious organization.

Some Muslim leaders charged the government was hostile toward Muslims. According to Muslim leaders, authorities rigorously scrutinized the identification cards of persons with Muslim surnames, particularly ethnic Somalis, and sometimes required additional documentation of citizenship, such as birth certificates of parents and even grandparents. The government continued to state the heightened scrutiny was an attempt to deter illegal immigration, rather than to discriminate against ethnic Somalis or their religion.

Some Muslim leaders, particularly in Coast Province, asserted that, as a mechanism to diminish their political power, the most recent government census radically undercounted Muslims. The courts, however, have rejected challenges to the census numbers.

Muslim leaders also accused the government of using the pretense of fighting terrorism to arrest and deport Muslim scholars, as well as target Islamic NGOs in overly broad security operations. These critics asserted the government failed to differentiate violent extremists from legitimate scholars and religious NGOs. These charges increased in frequency after the government military incursion into Somalia in October and subsequent attacks inside Kenya, some of which the government has linked to the Somali terrorist group al-Shabaab. Government security forces subjected citizens of Somali origin, who are predominantly Muslim, to occasional arbitrary detention, based on perceived links to extremists.

Some Muslim human rights activists continued to call for the disbandment of the Anti-Terrorism Prevention Unit, a specialized police unit within the Ministry of Provincial Administration and Internal Security, alleging that it was engaged in a systematic campaign of harassment that specifically targeted Muslims, including extortion of businesspeople and theft during raids.

Government schools sometimes prevented girls from attending classes if they wore a headscarf or other religious dress. For example, the Akorino sect (found in Central as well as parts of Western and Nyanza provinces) combines Christian and African styles of worship and requires women to cover their heads. School authorities have ordered female students who were members of the sect to remove their headscarves while in school, stating such garments were in violation of school uniform policies.

After killings of individuals accused by others of witchcraft, local authorities sometimes responded by placing those suspected of witchcraft in protective custody to prevent lynching. Government officials routinely criticized vigilantism against those accused of witchcraft, but also claimed to initiate crackdowns against those practicing traditional medicine, which was associated with witchcraft in many communities and which the authorities sometimes considered to be fraud or practicing medicine without a license.

Section III. Status of Societal Respect for Religious Freedom

There were some reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Some Muslims perceived general discrimination against them as a minority and expressed the view that the government and business community have deliberately impeded development in predominantly Muslim areas. Citizens of Somali origin, who are predominantly Muslim, were susceptible to discrimination by the public. Christian leaders complained that Christians were subject to discrimination by individuals and businesses in the historically Muslim areas of Coast and North Eastern provinces. Because ethnicity and religion are often inextricably linked, it was difficult to categorize such complaints by Muslims and Christians, respectively, as solely ethnic or religious intolerance.

Local Christian organizations reported individuals who converted to Christianity from Islam, particularly individuals of Somali ethnic origin, were often threatened with violence or death by Muslim religious leaders and their families. These threats prompted some individuals to go into hiding.

There were multiple reports from the Kisii and Kuria districts and Nyanza, Coast, and Western provinces of abuse and killings of persons suspected of practicing witchcraft, in this context referring to a range of traditional practices that may have a religious component. Victims of these crimes were often elderly; perpetrators were often youths and sometimes were related to the victims. Many of these incidents, which perpetrators claimed were aimed at suppressing the practice of witchcraft, appeared to have had other motives, such as obtaining access to property owned by the victims or settling family disputes.

Section IV. U.S. Government Policy

The U.S. embassy encouraged the government to continue respect for religious freedom as part of its broader reform process. The embassy hosted an interfaith roundtable that encouraged participants to engage peacefully across sectarian lines and to reaffirm the country's history of religious freedom and diversity. The embassy encouraged the

interfaith community to see religious diversity as a national strength, not a source of strife and division.
