

# KENYA 2017 INTERNATIONAL RELIGIOUS FREEDOM REPORT

## 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, again were the target of government-directed extrajudicial killings, enforced disappearances, torture, arbitrary arrest, and detention. A December 2016 report by a Mombasa-based human rights organization documented 81 extrajudicial killings and disappearances of Muslims from the coastal region over a five-year period. The government denied directing such actions. Ethnic Somali and other Muslim communities reported difficulties in obtaining government-mandated identification documents, citing heightened requirements for Muslim communities. On October 17, authorities in the coastal city of Malindi in Kilifi County charged Christian televangelist Paul Makenzi and his wife with radicalizing children. A 2016 appeal by the Methodist Church regarding female students wearing hijabs as part of their school uniforms remained pending as of the end of the year. In September the attorney general supported the right to wear the hijab in school in arguments before the Supreme Court.

The Somalia-based terrorist group Harakat al-Shabaab al-Mujahideen (al-Shabaab) carried out attacks in Mandera, Wajir, Garissa, and Lamu Counties and said it had targeted non-Muslims because of their faith. In July al-Shabaab targeted Christians in an attack in the town of Jima in Lamu County, killing nine. According to the *Morning Star News*, on May 31, suspected al-Shabaab terrorists invaded the town of Fafi in Garissa County and killed a Christian schoolteacher while she taught class, and abducted and killed a Christian and a Muslim teacher who tried to defend him.

Muslim minority groups, particularly those of Somali descent, reportedly continued to be harassed by non-Muslims. There were reports of religiously motivated threats of societal violence and intolerance, such as 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 efforts to defuse political and ethnic tensions, especially with regard to controversy about the composition of the national elections institution, the Independent Electoral and Boundaries Commission (IEBC), and in the wake of contentious presidential elections in August and October. The embassy also encouraged religious and civic leaders to work together across sectarian lines to advance tolerance and peaceful coexistence.

### **Section I. Religious Demography**

The U.S. government estimates the total population at 47.6 million (July 2017 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 Bahais. 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 (Somali and Mijikenda ethnic groups) are often linked. There are approximately 243,000 refugees and asylum seekers in the Dadaab refugee camps, most of whom are ethnic Somali Muslims. There are approximately 182,000 refugees in the Kakuma refugee camp, 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. It 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. It 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.

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. In order to register, applicants must have valid national identification documents and pay a fee. Registered religious institutions and places of worship may apply for tax-exempt status, including exemption from paying 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 they are not required to offer both.

A 2014 law creating fees for multiple steps in the marriage process applies to all marriages, religious or secular. For example, 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**

*Summary paragraph:* There were reports by human rights groups that government agents, including members of counterterrorism entities, committed extrajudicial

killings and disappearances of Muslims. On October 17, authorities in Malindi charged Christian televangelist Paul Makenzi and his wife with radicalizing children. An appeal by the Methodist Church regarding female students wearing hijabs as part of their school uniforms remained pending at year's end. Muslim groups said the government linked the entire Muslim community with the terrorist group al-Shabaab and discouraged, through intimidation, Muslim community members from reporting police misconduct. Muslim community leaders also stated they faced difficulties obtaining official identification documents, which they needed for voting and access to government and financial services. Since religion and ethnicity are closely linked, it was difficult to categorize many incidents as being solely based on religious identity.

Human rights groups and prominent Muslim leaders stated the government targeted Muslims for extrajudicial killing, torture and forced interrogation, arbitrary arrest, detention without trial, and denial of freedom of assembly and worship. A December 2016 report by the Mombasa-based NGO HAKI Africa entitled *What do we tell the families?* implicated police and counterterrorism entities in the extrajudicial killings or disappearances of 81 Muslims – primarily youth – in the coastal region over a five-year period in an antiterror campaign. The report detailed 31 extrajudicial killings, 22 deaths resulting from police use of excessive force, four deaths in police custody, and 24 enforced disappearances of individuals last seen in police custody. Imams in mosques or Islamic schools where youth had previously been arrested for alleged links with al-Shabaab reported they and their colleagues were frequently targeted for questioning, arbitrary arrests, and, in some cases, enforced disappearances and extrajudicial killings. In October Human Rights Watch and Amnesty International published a report on rights violations by security forces following the August 8 general election.

According to international reports, on November 2, Islamic preacher Khalid Mohamed Ali was acquitted of four terrorism charges by the Mombasa Principal Magistrate after the prosecution failed to prove its case against him. Authorities charged Ali as a member of al-Shabaab in 2015 after arresting him reportedly in possession of bomb making materials and a military hand grenade.

On October 17, authorities in the coastal city of Malindi in Kilifi County charged Christian televangelist Paul Makenzi and his wife 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 prosecution was pending at year's end.

On October 31, a court in Nairobi held the first hearing on the May 2016 suspension by the attorney general of the registration of the Atheists in Kenya Society (AIK). The suspension followed complaints by some religious leaders over AIK's registration. They argued AIK's beliefs were not consistent with the constitution, stating the constitution "recognizes Kenya as a country that believes in God." A court ruling was expected in January 2018.

Muslim leaders engaged in discussions with the National Environment Management Authority about how to balance compliance with noise pollution regulations and the religious requirement for the morning call to prayer.

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.

An appeal by the Methodist Church was pending at year's end regarding a September 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 arguments before the Supreme Court in September, the attorney general supported 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 it received numerous complaints from predominantly Muslim communities, particularly in the Eastleigh neighborhood of Nairobi, of intimidation, arbitrary arrest, and extortion by police. Some complainants stated police accused them of being members of al-Shabaab.

Muslim leaders reported Muslim citizens continued to face difficulties acquiring national identification from the National Registration Bureau and passports from the Immigration Department. Identification cards are required by law and are a prerequisite for voting and access to certain government and financial services. Failure to register is a crime. Muslim communities – including ethnic Somali communities, coastal Muslim communities, the Nubian community in Nairobi, and the Galjeel community around the Tana River – reported they were often subjected to more requirements than other groups in order to register. These requirements included presentation of birth certificates and citizenship documents of their fathers, grandfathers, and great-grandfathers. They stated they were also required to make special appearances at specified police stations and endure long waiting periods. The government stated the additional scrutiny was necessary to deter illegal immigration and to fight terrorism, and that such scrutiny was not intended to discriminate against certain ethnic or religious groups. In July the Supreme Council of Kenya Muslims complained publicly that the extended passport application process for Muslims prevented more than 100 individuals from obtaining travel documents in time to attend the Hajj.

The revised Religious Societies Rules had not been finalized at year's end. In January 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 religious leaders and the public would be consulted and allowed to provide input on a new draft. In the interim, new religious organizations were not able to register with the Registrar of Societies. According to the Alliance of Registered Churches & Ministries Founders, more than 4,400 religious group applications were pending as of year's end.

### **Section III. Status of Societal Respect for Religious Freedom**

There were multiple reports of terrorist attacks in the northeast by al-Shabaab that targeted non-Muslims. According to media reports and religious advocacy organizations, in Lamu County on July 5 and 8, al-Shabaab terrorists targeted Christians in two separate attacks, killing three police officers and nine civilians, respectively.

According to *Morning Star News*, on May 31, suspected al-Shabaab terrorists invaded the town of Fafi in Garissa County and killed a Christian schoolteacher while she taught class, and abducted and killed a Christian and a Muslim teacher who tried to defend him.

Christian Solidarity Worldwide reported on July 7, al-Shabaab terrorists beheaded nine men in Jima and Pandanguo villages. Survivors reported non-Muslim men were targeted. Al-Shabaab remained the focus of government antiterror and police efforts throughout the northeast and coastal region

There were continued reports of threats of violence towards individuals based on religious attire and expressions of intolerance towards members of other faiths. Since religion and ethnicity are closely linked, it was difficult to 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 persons of Somali origin, who were predominantly Muslim, with suspicion. 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.

Religious leaders representing interfaith groups, including Anglican, Catholic, evangelical Protestant, Muslim, and Hindu communities, engaged with political parties and the IEBC leading up to the August and October presidential elections and in their aftermath. Representatives of a number of religious organizations participated in weekly Dialogue Reference Group meetings to promote community understanding and communication between the two major political parties. The group released press statements before the August 8 election and the October 26 repeat presidential election, calling on police to adhere to the rule of law and identifying specific actions the parties and the IEBC should take to ensure a peaceful and fair process. The polarized election process also revealed interfaith community rifts as divergent views emerged about how best to ensure greater inclusivity in government in order to prevent further crises.

## **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.

The Ambassador 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. Along with the Ambassador and other embassy officials, senior religious figures played a prominent role in efforts to arrange a national political dialogue following the presidential elections.

In August the Ambassador met with coastal interreligious leaders to discuss challenges of religious tolerance and cooperation in the country. He met periodically throughout the year with Muslim leaders in Nairobi. The Ambassador 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 intra-Muslim dialogue on freedom and tolerance.

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. During the year's election cycle, embassy officials regularly held meetings with religious leaders to encourage positive engagement by religious communities in political and reconciliation processes. 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.