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Kenya

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

July-December, 2010 International Religious Freedom Report

Report

September 13, 2011

The constitution and other laws and policies protect religious freedom and, in practice, the government generally enforced these protections.

The government generally respected religious freedom in law and in practice. There was no change in the status of respect for religious freedom by the government during the reporting period; however, some Muslim leaders continued to charge that the government is hostile toward Muslims.

While there were few reports of societal abuse or discrimination based on religious affiliation, belief, or practice, some Muslims perceived themselves to be treated as second-class citizens in the predominantly Christian country. Christian leaders also complained of perceived discrimination in the historically Muslim areas of Coast and North Eastern Province.

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights.

Section I. Religious Demography

The country has an area of 225,000 square miles and a population of close to 39 million. Approximately 80 percent of the population is Christian and 11 percent is Muslim. Groups that constitute less than 1 percent of the population include Hindus, Sikhs, and Bahais. The remainder follows various indigenous religions. Among Christians, 58 percent are Protestant and 42 percent are Catholic.

Section II. Status of Government Respect for Religious Freedom

Legal Policy/Framework

Please refer to Appendix C in the *Country Reports on Human Rights Practices* for the status of the government's acceptance of international legal standards <http://www.state.gov/g/drl/rls/hrrpt/2010/appendices/index.htm>.

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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 provides for Kadhi 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." However, the secular high court has jurisdiction over civil or criminal proceedings, including those in the Kadhi courts; any decision can be directly appealed to the high court.

Some Christian groups argued that the constitution's inclusion of the federally funded Kadhi courts grants preferential treatment to Muslims. The National Council of Churches Kenya filed a 2004 lawsuit contesting the legality of the Kadhi courts, which was upheld by the constitutional court in a May 2010 ruling. The ruling was immediately appealed but the ruling was superseded by the passage of the new constitution, which established the legality of the Kadhi courts.

The Ministry of Information and Communications routinely approved regional radio and television broadcast licenses for Christian and Muslim groups. The ministry has not granted the petition of the Catholic Church for a national frequency; however, the ministry has not granted a national frequency to any media organization except the government-owned Kenya Broadcasting Corporation

The government requires new religious organizations to register with the Registrar of Societies, which reported to the Office of the Attorney General. The government allows indigenous religious organizations to register, although many chose not to do so. After registration, religious organizations may apply for tax-exempt status, including exemption from paying duty on imported goods. Religious organizations generally received equal treatment from the government; however, some small splinter groups found it difficult to register when the government viewed them as an offshoot of a larger religious organization. The government outlawed and refused to register the Mungiki sect as a quasi-religious criminal organization.

Practicing witchcraft with intent to cause fear, annoyance, or injury in mind, person, or property is a criminal offense under colonial-era laws; however, persons generally were prosecuted for this offense only in conjunction with some other charge, such as murder, or to preempt vigilante action against them.

The government observes the following religious holidays as national holidays: Good Friday, Easter Monday, Eid al-Fitr, Christmas, and Diwali. Although Eid al-Adha was observed as a national holiday before the 2007 election, the government subsequently did not take the necessary steps to make the holiday permanent.

Restrictions on Religious Freedom

The government generally respected religious freedom in law and in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

Some Muslim leaders charged that 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 stated that the heightened scrutiny was an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religion.

Muslim leaders also accused the government of using the pretense of fighting terrorism to arrest and deport Muslim scholars, as well as targeting Muslim nongovernmental organizations (NGOs) to curtail Muslim proselytizing.

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Abuses of Religious Freedom

In January 2010 demonstrations by Muslims protesting the detention of Sheikh Abdullah al Faisal turned violent when protesters clashed with onlookers and street merchants. Police fired upon the protesters, killing two, while one police officer was shot and wounded by protesters. The government charged Al-Amin Kimathi, chairman of the Muslim Human Rights Forum, with incitement to violence for his role in organizing the protests. The case against Al-Amin Kimathi is currently pending, as he is in Ugandan custody awaiting trial on other charges. The trial in Uganda must be completed before disposition of the pending charges. Sheikh Faisal, a Jamaican citizen, was deported to Jamaica in January 2010.

The government continued to restrict the religious activities of Mungiki, a movement formed twenty years ago among ethnic Kikuyu. The Mungiki are frequently accused by the government of involvement in criminal gang activity. At year's end there were no developments in the March 2009 killing of Oscar Kamau King'ara, the executive director of the local NGO Oscar Foundation Free Legal Aid Clinic Kenya (OFFLACK), and Paul Oulu, OFFLACK's program coordinator. OFFLACK has been accused by the government of being a front for Mungiki. There also were no developments in the killings and disappearances of suspected Mungiki members.

Muslim human rights activists continued to call for the disbandment of the Anti-Terrorism Prevention Unit, alleging that it was engaging in a systematic campaign of harassment that specifically targeted Muslims, including extortion of businessmen and theft during raids.

There were no reports of religious prisoners or detainees in the country.

Section III. Status of Societal Actions Affecting Enjoyment of Religious Freedom

There were few reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Inter-marriage between members of Christian denominations is common, and interfaith prayer services occurred frequently. Inter-marriage between Muslims and Christians, although less frequent, was also socially acceptable; however, some spouses were asked to convert to Islam as a precondition for the marriage. Some Muslims perceived themselves to be treated as second-class citizens in a predominantly Christian country and believed that the government and business communities deliberately impeded development in predominantly Muslim areas.

Local Christian organizations reported that 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 Kisii District and in Nyanza and Western provinces of abuse and killings of persons suspected of practicing "witchcraft." (Witchcraft in this context refers to a range of traditional practices that may have a religious component.) Local authorities sometimes responded by making arrests after killings of suspected witches or by placing those suspected of witchcraft in protective custody to prevent lynching. Government officials routinely denounced vigilantism against suspected witches but also claimed to initiate crackdowns against those practicing traditional medicine. Victims of these crimes were often elderly; perpetrators were often youths and were sometimes related to the victims. Many of these incidents, which perpetrators claimed were aimed at suppressing the practice of witchcraft, appeared to have been efforts to pursue other agendas, such as obtaining access to property owned by the victims or settling family disputes.

Section IV. U.S. Government Policy

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