



## Kenya

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### **International Religious Freedom Report 2009**

**October 26, 2009**

The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

The Government generally respected religious freedom 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 very 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.

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 39 million. Approximately 80 percent of the population is Christian, 10 percent Muslim, less than 1 percent Hindu, Sikh, and Baha'i, while the remainder follows various indigenous religions. Protestants comprise 58 percent of Christians, and Roman Catholics 42 percent.

North Eastern Province, where the population is predominantly ethnic Somali, is home to 15 percent of the Muslim population. Sixty percent of the Muslim population lives in eastern Coast Province, making up 50 percent of the total population there. Western areas of Coast Province are mostly Christian. The upper part of Eastern Province is home to 10 percent of the country's Muslims, mostly ethnic Borana but also some Somalis, where they are the majority religious group. Apart from a small ethnic Somali Muslim population in Nairobi, the rest of the country is largely Christian.

Upper Eastern, North Eastern, and Coast Provinces, which together are home to approximately 75 percent of the Muslim population, are less developed than other parts of the country.

#### Section II. Status of Government Respect for Religious Freedom

##### Legal Policy/Framework

The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. The law at all levels protects this right in full against abuse, either by governmental or private actors.

The Constitution and the Kadhis' Courts Act of 1967 establish a venue for the adjudication of certain types of civil

cases based on Islamic law. The Constitution 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." 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 the Constitution's inclusion of the federally funded Kadhis' courts gives preferential treatment to Muslims.

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 religious organizations to register, although many choose 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 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.

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 Good Friday, Easter Monday, Eid al-Fitr, and Christmas as national holidays. The Government also recognizes Eid al-Adha and Diwali as public holidays for Muslims and Hindus, respectively. Although Eid al-Adha was observed as a national holiday just days before the December 2007 election, the Government subsequently did not take the necessary steps to make the holiday permanent. Eid al-Adha was not observed as a national holiday in December 2008.

#### Restrictions on Religious Freedom

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

In December 2008 the media reported that police prevented hundreds of practitioners of an indigenous religion from traveling to Mount Kenya to pray. Police said they suspected that the group was comprised of members of Mungiki, a banned criminal organization whose members follow indigenous religious practices.

Some Muslim leaders charged that the Government was hostile toward Muslims. According to these leaders, persons with Muslim surnames must provide extra documentation of citizenship, such as birth certificates of parents and even grandparents, in order to acquire identity documents such as birth certificates, national identity cards, and passports.

Muslim leaders also accused the Government of using the pretense of fighting terrorism to arrest and deport Muslim scholars in order to curtail Muslim proselytizing. In November 2008 the Government deported Sheikh Mohammed Yunus Kamoga, a Ugandan citizen and Wahhabi Muslim scholar, to Uganda after he was arrested and questioned by the Anti-Terror Police Unit (ATPU).

In December 2008 the Minister of Immigration failed to renew the visa of prominent Wahhabi Muslim scholar, Sheikh Mohammed Osman Egal, a British citizen. According to press reports, two other foreign Muslim scholars, Sheikh Ismail Rufai and Sheikh Ibrahim Shariff Atass, were also deported during the reporting period.

Some Muslims expressed concern that the lack of a university in Coast Province, with its large Muslim population, hindered educational opportunities for Muslims. An Islamic university near Nairobi was under construction and initially expected to open in 2009; however, some Muslims noted that since the Government asked the university's founder, Sheikh Egal, to leave the country, it was likely that the university's opening would be delayed, perhaps indefinitely.

In October 2007 President Kibaki appointed a special committee to look into the Muslim community's grievances; however, the completed report was never officially forwarded to the President. The press obtained a copy of the report and published it on August 1, 2008. The report supports the claims of discrimination in the issuance of identity documents and passports to Muslims and found that counterterrorism operations violated existing national laws. The report also found that Muslims were unlawfully rendered to foreign countries, Muslim communities did not have fair access to obtaining land title deeds, and that the Kadhis' courts were inadequately funded. The matter was raised in Parliament on August 6, 2008, when a Muslim member of parliament confronted the Internal Security Minister on the delay in presenting the report to the President. The Minister reportedly promised to facilitate delivery of the final report, but at the end of the reporting period, the report had not been delivered to the President.

While many in the Muslim community initially welcomed the appointment of the Minister for Immigration and Registration of Persons and his promise to end discrimination against the Muslim community, some believed that the deportation of several prominent Muslim scholars and the Government's failure to accept the report on Muslim grievances demonstrated a lack of progress on these issues.

On June 22, 2009, a woman was sentenced to nine months' imprisonment for the possession of charms in violation of the Witchcraft Act. Police arrested the woman on June 18 after she reportedly attended a burial and remained at the site, raising the suspicions of the relatives of the deceased. According to media reports, the police responded immediately to prevent the community from lynching her.

#### Abuses of Religious Freedom

According to local Muslim organizations, a September 2008 Human Rights Watch report, and a February 2009 joint report by the UK-based human rights organizations REDRESS and Reprieve, the Government arrested and detained more than 150 Muslims as suspected terrorists, rendering between 85 and 120 of them to Ethiopia and Somalia in early 2007. Some of those detained, the groups claimed, were women and children; detainees were reportedly held for weeks without charge and denied access to a lawyer. The groups did not know the whereabouts of some of the detainees. A president-appointed special committee, formed in October 2007, heard testimony from persons affected by the operation that included claims of physical and mental abuse, but the final report had not been officially released by the end of the reporting period. On October 4, 2008, eight citizens who had been rendered to Somalia and onward to Ethiopia returned to the country; none were charged with any crime after their return. The Government claimed that the eight who returned were the only nationals found in Ethiopian custody, although the status of a ninth person presumed to be a Kenyan citizen, Abdulrashid Mohammed, was unknown. Shortly after their return, the eight citizens, together with three former detainees of other nationalities, petitioned the High Court for compensation from the Government and the two airlines that reportedly transported them to Somalia. There was no update on the petition at the end of the reporting period.

Muslim human rights activists called for the disbandment of the ATPU, claiming that it was engaging in a systematic

campaign of harassment that specifically targeted Muslims, including extortion of businessmen and theft during raids. Although the report was not officially released, the special committee appointed by President Kibaki to look into the Muslim community's grievances reportedly found that the ATPU appeared to be carrying out arrests and operations "outside the law and without due regard to human rights."

The Government of Eritrea maintained close financial ties with the Eritrean Orthodox Church in Kenya, which reported that planted agents stole church funds. On September 13, 2008, after a church official began to investigate the church's finances, Eritrean government officials in Nairobi assaulted the official at his residence with knives and stole approximately \$2,570 (180,000 Kenyan shillings). The police arrested no one, even though the official and several witnesses reported the event.

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

#### Forced Religious Conversion

There were no reports of forced religious conversion, including of minor U.S. citizens who had been abducted or illegally removed from the United States or who had not been allowed to be returned to the United States.

#### Section III. Status of Societal Respect for 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 occur frequently. Inter-marriage between Muslims and Christians, although less frequent, is also socially acceptable. However, 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.

There were multiple reports from the southern Rift Valley Province, particularly Bomet and Kisii Districts, as well as the coastal town of Malindi in Coast Province, 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. In 2008 police in Kisii District reportedly charged 33 persons with murder for killing suspected witches. 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 youth 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.

On May 6, 2009, local authorities charged nine women in Kiogoro, Kisii District, with abducting an 11-year-old boy and practicing witchcraft on him. One woman allegedly confessed to practicing witchcraft and was sentenced to one year in prison. The two other trials were ongoing at the end of the reporting period. Two additional women suspected of participating in the alleged abduction remained at large.

On April 29, 2009, villagers in Malindi beat, bound, and burned alive a married couple, both in their 60s, after the death of their 18-year-old grandson from an illness. Villagers reportedly claimed that the couple had bewitched their grandson after a disagreement with the other grandfather. The local chief of police blamed self-proclaimed seers who claimed to be able to identify witches for inciting the villagers. Police arrested two suspects who were awaiting charges at the end of the reporting period. According to media reports, the April death of the Malindi

couple brought the total number of killings in that area of those suspected of practicing witchcraft to 22 since mid-2008.

In March 2009 an elderly man in Bomet (southern Rift Valley) was denied bail after his arrest for the possession of charms believed to be for witchcraft. While the man denied charges, local authorities expressed worry that the man would be lynched if freed. The man remained in custody at the end of the reporting period.

On February 26, 2009, four women and one man, all of whom were in their 80s, in Nyamaturo, Kisii District, were burned alive for suspected witchcraft. Villagers accused them of abducting a child and practicing witchcraft on him. Five suspects were convicted of lynching and sentenced to one year in prison. Eleven other suspects remained at large at the end of the reporting period.

On February 8, 2009, a man in Malindi was kicked and stoned to death, allegedly by his own relatives, after his son's funeral. Family members claimed the man was responsible for his son's death and practiced witchcraft. Police arrested three of the man's relatives and interrogated them. The suspects remained in custody awaiting trial at the end of the reporting period.

On January 26, 2009, a gang of unknown assailants assaulted and fatally cut an assistant chief near his home in Gongoni, Malindi District. Local observers said that the man was suspected of practicing witchcraft.

#### Section IV. U.S. Government Policy

The U.S. Government discusses religious freedom with the Government as part of its overall policy to promote human rights. The U.S. Embassy made a concerted effort to bridge the gaps that exist between Muslims and Christians and to ensure full respect for the human rights of all.