



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [International Religious Freedom](#) » [2003 Report on International Religious Freedom](#) » [Africa](#) » [Kenya](#)

Kenya

International Religious Freedom Report 2003

BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR

The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, while groups generally were allowed to worship freely, the Government at times interfered with other activities by religious groups. The Constitution does not provide for any official state religion.

There was no change in the status of respect for religious freedom during the period covered by this report. The Government at times restricted or disrupted public meetings that religious groups organized or participated in. Muslim leaders charge that the Government is hostile towards Muslims.

There generally is a great level of tolerance among religious groups; however, there were a few instances of violence between Christian groups and between Christian and Muslim groups, and Muslims continued to perceive themselves to be treated as second-class citizens in a predominantly Christian country. There are some interfaith movements and political alliances, but one of the main alliances, the Ufungamano Initiative, faltered during the period covered by this report.

The U.S. Government discusses religious freedom issues with the Government in the context of its overall dialog and policy of promoting human rights.

Section I. Religious Demography

The country has a total area of approximately 225,000 square miles, and its population is approximately 29 million, of which approximately 88 percent lives in rural areas. According to rough estimates, Protestants are the largest religious group representing approximately 38 percent of the population. Approximately 28 percent of the population is Roman Catholic, while an estimated 10 to 20 percent is Muslim. Hinduism is practiced by one percent of the population, and the remainder follow various traditional indigenous religions or offshoots of Christian religions. There are very few atheists.

Members of most religious groups are active throughout the country. Certain religions dominate in particular regions of the country. For example, the North Eastern Province is vastly Muslim; the Eastern Province is approximately 50 percent Muslim (mostly in the north) and 50 percent Christian (mostly in the south); and the Coast Province predominantly is Muslim, except for the western areas of the province, which predominantly are Christian. The rest of the country largely is Christian, with some persons practicing traditional indigenous religions.

Many foreign missionary groups operate in the country, and the Government generally has permitted their assistance to the poor and their founding of schools and hospitals. The missionaries openly promote their religious beliefs and have

encountered little resistance.

Section II. Status of Religious Freedom

Legal Policy/Framework

The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, while groups generally were allowed to worship freely, the Government at times interfered with other activities by religious groups.

Kadhis' courts provide Muslims with a venue to have civil cases adjudicated based on Islamic law. Article 66 of the Constitution provided for the establishment of Kadhis' courts where "all the parties profess the Muslim religion" in suits relating to "questions of Muslim law relating to personal status, marriage, divorce or inheritance." The Kadhis' Courts Act of 1967 established Kadhis' courts.

A conference to draft a new constitution began in April and was to consider a draft constitutional provision that would expand the jurisdiction of the Kadhis' courts to commercial matters and increase their numbers. In April several thousand Muslims demonstrated peacefully across the country to demand that the Kadhis' courts be enshrined by the new constitution; however, the proposal to expand the jurisdiction and role of the Kadhis' courts in the constitution faced stiff opposition from the delegates at the National Constitutional Conference. The Kadhis' courts controversy has highlighted latent religious animosities between the country's Muslims and Christians. The debate on this issue is ongoing.

Opponents of this provision, led by Christian clerics, argue that Muslims will be given preferential treatment if Kadhis' courts are incorporated into a new constitution. They further argue that as a secular nation, there should be a separation of religion and state. Some Muslim leaders have demanded that Shari'a receive formal recognition in the new constitution, while one of the main allegations posed by opponents of Kadhis' courts is that their inclusion could pave the way for the full application of Shari'a law in the country.

Proponents of Kadhis' courts, on the other hand, argue that other religious groups could establish their own courts if necessary. Some also argue that the Kadhis' courts should be seen as a matter concerning the judiciary and not religion. They further contend that the recognition of the Kadhis' courts was a condition for the integration of the coastal strip into Kenya at the time of independence and question why opponents now object to a slight expansion and modification of this system. Moreover, they argue, the proposed constitutional provision does not pave the way for the full application of Shari'a law.

In April the Government published the Suppression of Terrorism Bill. Many observers find the bill objectionable on human rights grounds, arguing that it contains provisions that violate the Constitution. Muslim leaders in particular argue that the bill is specifically targeted at members of their community and have called for a rejection of the bill. The bill has not yet come up for a vote in Parliament, and the debate was still ongoing at the end of the period covered by this report.

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 traditional indigenous religious organizations to register, although many choose not to do so. Once registered, religious organizations enjoy tax-free status, and clergy are not subject to duty on purchased goods. However, some religious institutions, such as the Presbyterian Church of East Africa, accused the former Government of revoking their exempt status on Value Added Tax and custom duties on suspicion that the Presbyterian Church supported opposition political groups. Religious organizations generally receive equal treatment from the Government; however, some small splinter groups have found it difficult to register due to their inability to define their

status as more than an offshoot of a larger religious organization. The Government has not granted registration to the Tent of the Living God, a small Kikuyu religious order banned during the single-party era (pre-1992). However, since the arrival of a multiparty system in 1992, membership in the Tent of the Living God has decreased greatly.

Political parties also must register with the Government. Despite 1997 reforms and the subsequent registration of a large number of political parties, the Government has refused to reverse its 1992 denial of registration of the Islamic Party of Kenya (IPK) on the grounds that the IPK, which in 1992 was involved in a number of violent confrontations with police, offended the "secular principle" of the Constitution.

In the areas of the country that largely are Christian, there are morning prayers in public schools. All children participate in the assembly but are not punished if they remain silent during prayers. The Government and some churches frequently disagree over school management when both the Government and the church have a stake in the school. Often churches provide the land and the buildings for the schools, and the Government provides the teachers, which has led to disputes over school management and occasionally the closing of schools. The Standing Committee on Human Rights, in its May report on religious freedom in public schools, found that the Africa Inland Church (AIC) infringed on students' freedom of worship. The AIC sponsors a number of schools, some of which are public schools. The report found that the AIC compelled all students admitted to its schools to adhere to AIC beliefs, which contradicts the Constitution.

There are also a few public schools sponsored by Islamic institutions, which are supported by the Government through the employment of teachers and provision of equipment. Some members of the Muslim community have expressed concern that the lack of a university in the Coast Province, which has a large Muslim population, hinders their educational opportunities; however, higher education is available to Muslim students in other regions of the country.

The Ministry of Transport and Communication has approved radio and television broadcast licenses for several Muslim and Christian groups. The Catholic Church has been assigned regional broadcasting frequencies, but not national frequencies; its petition for national frequencies was not resolved by the end of the period covered by this report. However, to date no organization has been granted national frequencies. Rather, organizations have been assigned a series of regional broadcasting frequencies to give their broadcasts national reach.

The Government celebrates several religious holidays as national holidays, including Christmas, Good Friday, Easter Monday, Idd-ul-Fitr, and Idd?ul-Azha.

Restrictions on Religious Freedom

Muslim leaders have charged that the Government is hostile toward Muslims. Muslims complain that non-Muslims receive better treatment when requesting citizenship documents. According to Muslim leaders, authorities more rigorously scrutinize the identification cards of persons with Muslim surnames and require them to present additional documentation of their citizenship, such as birth certificates of parents and, sometimes, grandparents. The Government has singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members are issued and required to carry an additional form of identification to prove that they are citizens. They must produce upon demand their Kenyan identification card and a second identification card verifying screening. Both cards also are required to apply for a passport. This heightened scrutiny appears to be due to an attempt to deter illegal immigration, rather than to discriminate against the religious affiliation of the ethnic Somalis. In August 2002, Daniel arap Moi, then President of the country, announced that the Government had stopped screening ethnic Somalis, which he argued was necessary during the 1990s to stem the flow of illegal immigrants from neighboring Somalia. Moi said that the Government instead would rely on local elders and leaders to determine the citizenship of ethnic Somalis. However, it is unclear whether this policy is being enforced. Muslim leaders claim that since the 1998 bombing of the U.S. Embassy in Nairobi, the November 2002 terrorist attacks in

Mombasa, and terrorist attacks elsewhere, government discrimination against their community has worsened, especially demands for identity documents.

In the past, the misuse of authority by mainly Christian security forces in the northeast, which largely is Muslim and in which banditry is widespread, had contributed to Muslim mistrust. However, during the period covered by this report, there continued to be greater inclusion of Muslims in security forces and provincial administration.

In May 2001, Muslims protested the reported allocation of a public plot of land to a private developer in Mombasa. The grounds traditionally have been used for celebrating Islamic events. Following the protests, the Government apparently ceased developing plans to allocate the land, and the land remained public at the end of the period covered by this report.

In January 2002, former President Moi directed district education boards to return to the African Independent Pentecostal Church of Africa (AIPCA) those schools that AIPCA had operated prior to the country's independence; however, the President ordered that AIPCA schools already sponsored by other churches should be allowed to remain under such sponsorship. The British colonial government seized the AIPCA schools because of AIPCA's support of the Mau Mau movement. The AIPCA began repossessing its schools in 2002.

The former Minister of Trade and Industry Nicholas Biwott also has been engaged in a public dispute since 1998 with the Catholic Church over an intended project to use public land to create an educational facility to be named after the Minister's mother. Father Michael Rop, who is in charge of the local parish where the facility is proposed, protested the appropriation of public land to honor Biwott's mother. The Bishop of Eldoret, Cornelius Korir, accused Biwott of harassing Father Rop and his supporters, and claimed that the former Minister was persecuting the church and its followers. The dispute culminated in a confrontation between Biwott's supporters and the Catholic Church in July 2001 when armed police attempted to block Bishop Korir from entering Father Rop's church. The dispute was ongoing at the end of the period covered by this report.

In June 2002, in Busia, a district officer, who was a Seventh-day Adventist, was suspended for refusing to perform his official duties on Madaraka Day, which fell on a Saturday. During the same month, in Nandi, the Board of Governors suspended 10 high school students, who were Seventh-day Adventists, for refusing to take a test on a Saturday. Supporters of the students challenged the Board's decision, arguing that the school did not have the constitutional right to deny individuals the right to observe their religious practices. No further information was available at the end of the period covered by this report.

In January 2002, district officials in Gilgil stopped a religious meeting at the Emmanuel Church of God during a 2-week crusade after community residents complained of continual wailing and screaming coming from the church. Residents charged that the group was a "cult" and that its members had sold their property to prepare for the return of Jesus Christ; the church denied the allegations.

In 2000 after the discovery of "cult" killings in Uganda, William Ruto, then Assistant Minister in the Office of the President, warned that the Government would crack down on religious groups that endangered the safety of their adherents. In January 2002, Odeny Ngure, a former Member of Parliament, called on the Government and mainstream churches to cooperate in formulating policies to eliminate "cults" from the country; however, no action was taken during the period covered by this report.

The Government historically has been unsympathetic to tribal religious groups that have engendered protest movements. The Government frequently harassed and periodically arrested and detained members of the Mungiki, a small, controversial, cultural and political movement based in part on Kikuyu ethnic traditions, which espouses political views and

cultural practices that are controversial in mainstream society. While religion may have played a role in the formation of the group, observers believe that it is not a key characteristic of the group. The Mungiki do not adhere to any single religion and members are free to choose their own religion; the group includes Muslims and Christians. The number of Mungiki members is unknown, but the group draws a significant following from the unemployed and other marginalized segments of society.

Practicing witchcraft is a criminal offense under colonial-era laws; however, persons generally are prosecuted for this offense only in conjunction with some other offense, such as murder. Witchcraft traditionally has been a common explanation for diseases for which the causes were unknown. The practice of witchcraft is understood widely to encompass attempts to harm others not only by magic, but also by covert means of established efficacy such as poisons. Although many traditional indigenous religions include or accommodate belief in the efficacy of witchcraft, they generally approve of harmful witchcraft only for defensive or retaliatory purposes and purport to offer protection against it.

In January 2002, in Nyamira, police arrested two persons for possession of witchcraft supplies, including snake skin, tortoise shell, and powders, and for practicing witchcraft. According to the police, a pastor from Butere Mumias Deliverance Church claimed that the two persons had caused the mysterious illness of a man.

Abuses of Religious Freedom

Although the Constitution provides for freedom of assembly, at times the Government used sections of the Public Order Act and the Penal Code to restrict or disrupt public meetings that religious groups organized or participated in, primarily for political reasons. In April 2002, police arrested 39 members of the Tent of the Living God for holding an illegal meeting after the group led a demonstration through the center of Nairobi. In May 2002, all 39 were released on condition that they hold no illegal meetings or processions in the future.

In March 2002, government authorities charged Wanjiru Nduhiu, the leader of an unregistered Kikuyu group, with urging her followers to renounce Christianity and to revert to traditional beliefs and practices, such as female genital mutilation. Nduhiu denied the charges and remained in custody at the end of the period covered by this report; her court case was scheduled for April.

In 2000, police in Laikipia broke up a gathering in a Catholic church hall on the grounds that the participants were former freedom fighters holding a secret meeting. The police arrested four men and charged them with holding an illegal meeting; the case was pending at the end of the period covered by this report.

The case of two police officers, Julius Mugambi M'Nabere and Stephan Musau Kilonzo, charged with the 1999 murder of five Muslim worshippers in the Anas Bin Malik mosque in Chai village near Mombasa, remained pending before the court at the end of the period covered by this report.

There were no other reports of religious prisoners or detainees.

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 of the refusal to allow such citizens to be returned to the United States.

Section III. Societal Attitudes

between Christian groups and between Christian and Muslim groups, and Muslims perceive themselves to be treated as second-class citizens in a predominantly Christian country. Inter-marriage between members of Christian denominations is common, and interfaith prayer services occur frequently. Inter-marriage between Muslims and Christians, although less frequent, also is acceptable socially, and mosques and Christian churches are found on the same city blocks.

For years Muslims and Christians have held an open debate over their respective places in society. Each group claims to have a larger number of adherents than is plausible, and some Muslim groups believe that the Government and business communities deliberately have impeded development in predominantly Muslim areas. Some Muslim leaders claim that discrimination against Muslims has resulted in a greater incidence of poverty among Muslims than among other religious groups; however, there is no statistical evidence to support this claim. At times the debate has undermined mutual trust.

On June 13, five churches reportedly were burned down by Muslims in Bura Division of Tana River District after an Islamic preacher was arrested and briefly interrogated by police. The Muslims were followers of the cleric and were reportedly angered by the arrest. The cleric had converted to Islam from Christianity and had reportedly angered the Christians in the area with his teachings against Christianity; he was released from police custody at the request of a Member of Parliament. The churches that were burned down include the Anglican Church of Kenya in Bura, the Pentecostal Evangelism Fellowship of Africa (PEFA), the East African Pentecostal Church, the Full Gospel Church of Kenya, and the Bethel Church. Reverend Simon Mgumba of PEFA said his congregation was diminishing after the incident, due to fears of additional attacks. Reconciliation efforts between the communities are underway.

In September 2001, Muslim youths were suspected of responsibility for burning down two wooden churches in Isolo. Muslim leaders criticized the attacks and met in an attempt to diffuse tensions and allay concerns of Christians in the area. Police officers did not believe the fire to be religiously motivated.

In December 2001, Muslim demonstrators destroyed a Catholic church in Mandera after authorities arrested Sheikh Ahmed Hassan Mursal, a Muslim cleric. Mursal, who erroneously was identified as a participant in the 1998 bombings of the U.S. Embassies in Nairobi and Dar es Salaam, Tanzania, subsequently was released.

There were several disputes over land ownership and institutional conflicts between rival religious factions during the period covered by this report; some resulted in violence.

On March 16, Joseph Okech was killed in a fight during Sunday services between two factions of St. Stephen's Church in Dandora, Nairobi. The conflict reportedly came about as a result of a leadership struggle. However, church leaders contend that non-church members were actually responsible for the incident, which remained under investigation during the period covered by this report.

On May 11, rival factions of the African Independent Pentecostal Church of Africa in Nyeri clashed violently and several worshippers were injured. The two factions are aligned to two feuding archbishops.

In December 2002, eight persons were arrested in connection to the invasion of the African Independent Pentecostal Church during services. Three worshippers and the bishop were injured during the attack and property was damaged. The invasion was suspected to have resulted from an internal church conflict that was sparked when the previous bishop was ordered to retire by church headquarters.

In January 2002, approximately 500 squatters in Nyeri district forcibly dispersed members of the Othaya Presbyterian Church of East Africa (PCEA) from the church compound in which the worshippers had assembled for open-air services; several persons, including a priest, were injured. Both the worshippers and the squatters claimed ownership of the church

property, which is located on government land. Also in January 2002, in Marakwet, several persons, including a Pentecostal Assemblies of God (PAG) minister, were injured during a land dispute between members of a Catholic church and the PAG. The dispute reportedly began when Catholic worshippers accused PAG members of making too much noise while praying in a building adjacent to the Catholic church.

In January 2002, Egerton University officials barred approximately 300 worshippers from the AIC from conducting services in the Lord Egerton Castle, which has been the subject of a longstanding property dispute between the University and the AIC. According to the AIC, President Moi allocated the castle and the 50 adjacent acres to the Church in 1995; according to records at the Ministry of Lands, the property belongs to the chaplain of the University and two other individuals. President Moi issued a statement soon after the January 2002 incident indicating that the castle and surrounding property belonged to the University; however, AIC leaders urged their followers to ignore the statement. The dispute was ongoing at the end of the period covered by this report.

In March 2002, progovernment youths forcibly dispersed persons worshipping at a church in Nairobi, scattered church property out of the building, and locked worshippers outside the church. The youths charged that the church was located on land belonging to the Kenya African National Union (KANU), the then ruling party, and that the police had failed to assist them in reclaiming the land. No action was taken against the youths by the end of the period covered by this report.

A number of incidents took place in November and December 2000, when a land dispute led to violence between Muslims and Christians in a densely populated neighborhood in Nairobi. At least one person was killed and numerous persons were injured in the riots, including Anglican Archbishop David Gitari. Two days of violent clashes resulted in the burning of several buildings, including a mosque and two churches. After the riots ended, former Cabinet Minister Sharrif Nassir admitted that he had encouraged Muslim youths to retaliate when attacked. Muslim leaders subsequently apologized for the violence and clarified that the dispute originated over land and was not religiously motivated. Following the riots, religious leaders on both sides cited police inaction as a reason for the spread of the violence. No action was taken against those responsible for the incident. One of the churches burned during these riots has since been rebuilt and was reopened in March.

Unlike in previous years, there were no reports of ritual murders associated with aspects of traditional indigenous religious rites during the period covered by this report. In September 2002 three suspected child abductors were captured in Nakuru for allegedly kidnapping a 2-year-old child missing since April 2002. Officers believed the child was to be used for satanic rituals. The child was reunited with his parents.

Occasionally mobs killed members of their communities on suspicion that they practiced witchcraft or were devil worshippers. In April 2002, in Gucha, villagers killed a person they suspected of bewitching a neighbor and then burned his house. In February 2002, community members in Kitutu Masaba doused a married couple with gasoline and then set the couple on fire for allegedly practicing witchcraft. In February 2002, then Member of Parliament George Anyona charged that some of the killings were politically motivated, and that some politicians had attempted to eliminate political rivals by calling them witches and hiring persons to kill them.

In January 2002, an elderly woman suspected of being a sorceress was stoned to death by a mob in Nyabiswa village in Migori district. In January 2002, police in Kitui Central district dispersed with tear gas a mob that had threatened to lynch and burn the shop of a man they accused of "keeping ghosts." Parents in the community subsequently refused to send their children to school until local officials compelled the man to exorcise his evil spirits. Some members of the mob were arrested and fined for fighting with the police; others were detained for 1 month. In August 2001, in Nyamira, Jethiter Mboga was killed by three of his brothers for "bewitching" their mother; his brothers subsequently went into hiding.

There were no developments in the March 2001 case in which Hannah Mungai, a member of the Akorino religious group (a group that mixes traditions based on the Old Testament with indigenous beliefs) was not allowed to reclaim her daughter after leaving her with an evangelist member of the religious group while she toured the country on a preaching mission. Mungai claims that her daughter was given to other religious group members, and she does not know where her daughter is being kept. Mungai did not report the kidnaping to the police because the religious group does not allow challenges to "men of God" once they invoke the name of the Holy Spirit.

There were several reports of the public beating "suspicious-looking" persons who were accompanied by small children. In 2000 a mob of residents of Nairobi's Kariobangi North neighborhood lynched three suspected child abductors (believed to be devil worshippers), including a grandfather who was walking with his grandchild. In late October 2000, in Kisii, police intervened to block villagers from killing seven suspected witches. Also in 2000, the press reported that villagers burned alive a suspected sorcerer in Kimburini. In another incident in 2000, a mob attacked a group of American missionaries in Kisumu, whom it suspected to be on a mission to abduct children.

No new information was available on the August 2000 case in which Father John Anthony Kaiser, a Catholic priest working in the country for more than 30 years, was found dead near Naivasha town. Father Kaiser was a vocal human rights activist and a critic of key members of the Government. Although there was much public speculation to the contrary, an investigative report released by a foreign government in 2001 concluded that the evidence collected was most consistent with suicide, and that it was unlikely that Father Kaiser had been murdered. The Catholic Church has disputed this report and called for further independent investigation. The newly elected Government, under pressure from the Catholic Church, agreed in April to hold an inquest into Kaiser's death, which was underway at the end of the period covered by this report. The Church has also called for fresh investigations into the deaths of other Catholic priests who it believes died under suspicious circumstances.

There have been reports of intolerance among refugee groups in the country. Somali refugees reportedly have attacked relatives who marry refugees belonging to faiths other than Islam. Somali refugees at the Dadaab camps also reportedly have attacked verbally and physically Sudanese refugee women who wear Westernized clothing considered "too revealing" by Somali standards.

There have been societal efforts to bridge religious divides. The Inter-Faith Peace Movement represents a broad religious spectrum, and its members include the Anglican Church of Kenya, the Supreme Council of Kenyan Muslims, the Muslim Consultative Council (MCC), the Methodist Church, the Catholic Church, the National Council of Churches of Kenya (NCCCK), the AIC, the PCEA, and the Hindu Council. The NCCCK generally is involved in a variety of civil society initiatives, including conflict resolution. The Catholic Justice and Peace Commission, the MCC, and the NCCCK launched a pilot program in 2002 to promote interfaith dialog and reduce ethnic conflict in Isiolo district, during the period covered by the previous report. There are other cooperative efforts among religious groups to work on societal problems, including the Inter-Religious Steering Committee for Elimination of Female Genital Mutilation (FGM), formed in April.

In April the Ufungamano Initiative--an inter-faith movement that in 1999 helped spur the current constitutional review process--essentially ended when the Supreme Council of Kenya Muslims (SUPKEM) pulled out. SUPKEM quit Ufungamano after some Christian members of the group decided to oppose the inclusion of Kadhis' courts in a new constitution.

No known action was taken against progovernment youths who forcibly disrupted a meeting of the Ufungamano Initiative in Kisumu in 2000. The youths threw homemade bombs, burned a vehicle, and beat several persons severely.

Section IV. U.S. Government Policy

The U.S. Government discusses religious freedom issues with the Government in the context of its overall dialog and policy of promoting human rights. The U.S. Embassy made a concerted effort to bridge the gaps that exist between Muslims and Christians. Embassy officials maintain regular contact with all religious communities, and the Ambassador regularly hosts meetings with religious leaders to discuss issues affecting their communities. The Ambassador and Embassy officials also routinely travel throughout the country to meet with various religious and community leaders in an effort to facilitate dialog on religious freedom.

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