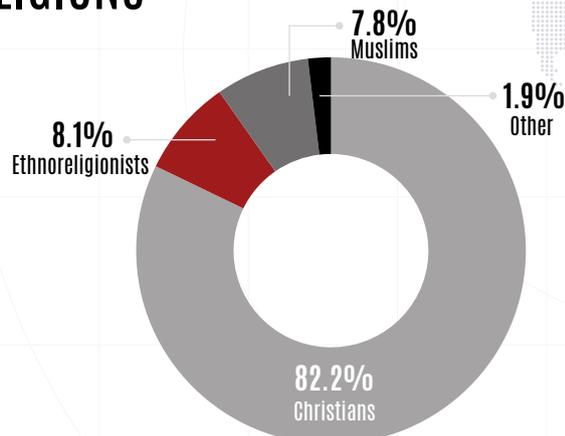




KENYA

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Article 32 (1-4) of the 2010 Constitution of Kenya¹ guarantees the right to freedom of conscience, religion, belief and opinion. All citizens have the right to worship, practise, teach or observe their beliefs, which includes a day of worship in accordance with their faith. Personal or professional discrimination as well as coercion on account of religion is prohibited.

Kenya has a very lively debate about the legal aspects of religious freedom. During the period under review, the country saw some contentious issues come up involving religious freedoms and their legislative regulation. Professor Githu Muigai, Kenya's former Attorney General (2011-2018), has played an important role in such controversies since 2016.

At the beginning of 2016, Professor Muigai announced that new provisions would be added to the Religious Societies Rules of 2015, aimed at exercising tougher control over religious groups. Henceforth, preachers or Church leaders would be required to have academic credentials.² Kenyan President Uhuru Kenyatta later decided to withdraw the proposed regulations following complaints from

certain groups and a meeting with religious leaders.³ At present, the new Religious Societies Rules are on hold.

Atheists in Kenya, an advocacy group for atheists and agnostics, was first registered in February 2016 but was suspended two months later by the Office of the Attorney General, after the latter received complaints from the public regarding its activities and statements. The group challenged its suspension by filing a case before the High Court of Kenya, which overturned its deregistration in January 2018.⁴ Thereupon, the group demanded the resignation of the Attorney General, who eventually left office in February 2018 for reasons unknown.⁵

Regulating the right of Muslim women to wear a head covering (like the hijab) has been a contentious issue, especially given the inconsistency of the government's legal decisions on the matter. In September 2016, the Court of Appeal of Kenya ruled that female Muslim students can wear a head covering in educational institutions (including Christian facilities). This ruling overturned a previous High Court decision in March 2015. In addition, some members of independent African Churches such as the Akorinos, whose members wear turbans (men) and veils (women), claimed that the ruling allowed them to keep their religiously required dress code as well.⁶ They have

often complained about discrimination in public offices, schools and other public institutions.⁷ Despite official rulings, this issue continued to be controversial in a number of educational establishments where bans on head coverings have been challenged.

Social tensions in Kenya's Coast Province, due to police harassment of leaders of Muslim groups, have subsided somewhat, partly because the main concern of security agencies in recent years has moved from jihadist terrorism to the political opposition, following tensions surrounding Kenya's last two presidential elections.

Violent actions by the Somali-based jihadist Al-Shabaab group, especially in Kenya's north and the east, continue, however, and still represent a serious threat to Kenyans, especially to outsiders and non-Muslims who live and work in those regions. This is also happening because the group uses religion as a pretext for political and propaganda purposes and targets non-Muslims and non-Islamic institutions.

INCIDENTS AND DEVELOPMENTS

The period under review has been characterised by Al-Shabaab attacks, mainly in the region bordering Somalia. The majority of the population in this area are ethnic Somalis and Muslim. The Catholic Church has been very vocal about the lack of security in the country.

In September 2018, armed militants believed to belong to Al-Shabaab stopped a bus headed to Garissa, a town not far from the border with Somalia. They made the passengers recite verses of the Qur'an and executed two who were not able to do so.⁸ A month later, in October 2018, two Christian teachers were killed in another incident in Mandera blamed on Al-Shabaab, a town on the border with Somalia. During the attack, the assailants set fire to the house of one of the teachers and shot the two men as they tried to escape.⁹

In January 2019, Al-Shabaab gunmen stormed a luxury hotel in Nairobi killing 21 people.¹⁰ Pope Francis described the incident as a "senseless act of violence" and sent condolences to the families of the victims.¹¹ At the end of the year, on 6th December 2019, Al-Shabaab carried out yet another attack on a bus in north-eastern Kenya, near the border, killing at least 10 people.¹² The Al-Shabaab militants divided the people who were on the bus into two groups depending on whether they were locals or not.

Afterwards, they proceeded to shoot the outsiders, who happened to be mostly Christians.¹³

A few reported incidents involved priests. In December 2018, a priest was killed in Kinoo (Kiambu) during a robbery.¹⁴ Archbishop Cardinal Njue of Nairobi called for an investigation into the circumstances of the clergyman's death.¹⁵ Weeks after the killing, four suspects linked to the priest's murder were killed in a police ambush during another attempted robbery.¹⁶ On another occasion, on 8th October 2019, Father Michael Kyengo Maingi was killed and robbed. Three suspects were charged in connection with the murder.¹⁷

In May 2019, the Annual Inter-Diocesan Conference on Cross-Border Peace and Evangelisation brought bishops and other participants from various countries in the East Africa region. The prelates issued a call for action towards disarming pastoralists living along the borders, with the involvement of both civil society groups and the authorities.¹⁸

The Kenya Conference of Catholic Bishops (KCCB) launched an anti-corruption campaign in November 2019, calling for a ban on cash donations to avoid "money of dubious origin".¹⁹

As a sign of good will between religious groups, during the Christmas season in 2019, Catholic leaders collected donations for Muslims in the region bordering Somalia. The priests said that Muslim leaders had previously delivered gifts to them during their religious celebrations and that "it is the Church's time to give".²⁰

In March 2020, the Archbishop of Nairobi complained in a letter sent to every parish that two sectarian groups had "targeted Catholic faithful taking advantage of fear and intimidation". He said that the groups wanted to restore traditional worships and "backwards practices".²¹

After four people were killed in June 2020 in Marsabit,²² the Catholic Justice and Peace Commission issued a statement bemoaning the escalation of violence and slamming politicians who exploit ethnic differences for their own interest.²³ The region is plagued with tensions and insecurity.

Al-Shabaab multiplied its ambushes, kidnappings and attacks in Mandera county, close to the border with Somalia, indiscriminately attacking military and civilians, up until the time of writing. Shooting attacks on buses are very frequent. Other attacks take place frequently in Wajir and Garissa counties.²⁴

In November 2020, Pope Francis met President Kenyatta in the Apostolic Library in the Vatican. The meeting highlighted the “good bilateral relations” and the contributions of the Catholic Church to Kenyan society.²⁵

The first national TV station owned by the Catholic Church was scheduled to open in Kenya after the Communications Authority granted a licence in September 2020. The decision to launch a TV channel was influenced by the need to maintain social distancing brought about by the coronavirus pandemic.²⁶

Places of worship, which were closed in March 2020 to contain the spread of the coronavirus,²⁷ reopened in July 2020.²⁸ The Catholic Church provided humanitarian assistance to Kenyans in need during the pandemic.²⁹ For his part, President Kenyatta called for a National Day of Prayer.³⁰

After the security forces brutally enforced the measures issued by the president to contain the virus, the KCCB’s Justice and Peace Commission released a statement denouncing the “brutality and harassment”.³¹ Furthermore, in November 2020, the conference organised training sessions in dioceses throughout the country to “address the rising incidences of gender-based violence in the wake of the COVID-19 pandemic”.³²

PROSPECTS FOR FREEDOM OF RELIGION

Despite Al-Shabaab losing part of the Kenyan territory it once controlled, the group is still strong. As the United States and African Union Mission in Somalia (AMISOM) gradually withdraws troops from Somalia at the end of 2020, the consequences for the security situation in the whole region are a source of concern. Kenya, which borders Somalia, will continue to suffer from insecurity as long as Al-Shabaab maintains a presence in the area. The COVID-19 pandemic, and the relative absence of security forces, have facilitated the return of the Islamist fundamentalist terrorist group. Although the terrorists do not target particular religious groups per se, among their objectives is to establish a territory.

The visit of President Kenyatta to Pope Francis at the Vatican in November 2020 was a unique event, highlighting the good relations between Kenya and the Catholic Church. The meeting allowed the two leaders to discuss, among other things, the role that Kenya can play in the region when it becomes a non-permanent member of the United Nations Security Council in 2021.³³

Notwithstanding the attacks by the Al-Shabaab terrorist group, interreligious relations are expected to remain good in much of the country for the foreseeable future.

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