

SOMALIA

The U.S.-designated terrorist group al-Shabaab continues to violate religious freedom through activities including: the violent implementation of its extremist interpretation of Islamic law and use of hudood punishments; execution of those it deems “enemies of Islam;” and killing Christian converts. The internationally-recognized Transitional Federal Government (TFG) lacks the capacity to protect religious freedom or address religious freedom violations. Although al-Shabaab conducts systematic, ongoing, and egregious violations of religious freedom, because it is not the governing authority, Somalia cannot be designated a “country of particular concern.” Therefore, USCIRF again places Somalia on its Watch List in 2012. Somalia has been on the Watch List since 2009.

Background

Governing and Legal Framework: Somalia has not had a central government since the 1991 fall of former dictator Siad Barre. Neither the TFG nor al-Shabaab has full control of central or southern Somalia. Al-Shabaab seeks to establish a Caliphate, and violently challenges the TFG and the peacekeeping African Union Mission in Somalia (AMISOM) that protects it. The TFG gained control over Mogadishu in August 2011 because of a bolstered AMISOM force and al-Shabaab’s surprising withdrawal. While additional gains were made in southern Somalia with Kenya’s October 2011 intervention, al-Shabaab still controls territory in central and southern Somalia and continues to fight a guerrilla war in Mogadishu. On February 9, 2012, al-Shabaab merged with al-Qaeda.

Internal divisions in the government prevented the implementation of the Transitional Federal Charter and changing over to a permanent, elected government by August 2011. The 2004 Charter is the governing document in Somalia and created the interim governing institutions of the Transitional Federal Government to prepare Somalia for a permanent, elected government. The Charter was amended in 2008 and 2009 and the transition period extended to August 2011 after opposition officials joined the Transitional Federal Government. On June 9, 2011, President Sheikh Sharif and the Transitional Federal Parliament Speaker Sharif Hassan signed the Kampala Accord that ended months of political stalemate and extended the transitional period for one year until August 2012. On September 6, 2011, all major political stakeholders, except Somaliland, signed the Roadmap for Ending the Transition in Somalia, which includes benchmarks, timelines and compliance mechanisms to implement priority tasks, including the election of the President and parliamentary speaker elections by August 20, 2012 and the drafting and passage of a new constitution.

The Transitional Federal Charter adheres to the 1960 Somali Constitution’s provisions on freedom of religion or belief. In December 2011, political and civil society leaders decided that a new constitution, based upon the Independent Federal Constitution Commission’s July 2010 draft constitution, would be adopted no later than May 15, 2012. The first article of the draft states that the constitution is “based on the foundations laid by the Holy Qur’an and Sunna...” Islam is to be the religion of the state and Shari’ah the supreme law of the land; no religion other than Islam will be permitted to be propagated and no law contrary to Shari’ah permitted to be enacted. The draft constitution prohibits state discrimination on the basis of religion and permits each Somali to freely practice his or her religion, although it also states that Muslims cannot convert from Islam.

In May 2009, the TFG parliament unanimously approved nationwide implementation of Shari’ah; however, implementation likely will be difficult given the differing opinions of what this would entail.

Somaliland and Puntland: Although there are few reports of religious freedom violations in Somaliland and Puntland, which are governed by separate constitutions, both establish Islam as the official religion, ban the promotion of other religions, bar conversion from Islam, and require presidential candidates to be Muslim. The Somaliland constitution prohibits any law from contradicting Islam and requires Islamic education. Puntland’s May 2009 constitution grants non-Muslims the freedom to practice their religion.

Religious Freedom Conditions

Al-Shabaab continues to engage in systemic and egregious violations of religious freedom and is working actively to establish Somalia as a base for terrorism and to spread violent religious extremism. The goal of this U.S.-designated terrorist group is to turn Somalia into an Islamic state, build a greater Somalia by incorporating regional areas with large ethnically-Somali populations such as Djibouti and parts of Ethiopia and Kenya, and spread its radical version of Islam.

Al-Shabaab is responsible for attacks in Uganda and Kenya. Support for al-Shabaab has eroded among Somalis who view its interpretation of Islam, use of hudood punishments, and al-Qaeda combat tactics as foreign to Somali society.

Shari'ah Law under al-Shabaab: Al-Shabaab violently implements Shari'ah law in the territories it controls. The group targets those accused of committing crimes and who are deemed to have deviated from accepted behavior through stoning, amputation, flogging, and/or detention. It requires women to be covered fully in public and forbids them from engaging in commerce that brings them into contact with men, and forbids men from shaving their beards, and shaves the heads of men with "inappropriate hairstyles." It also forces businesses to close during the five daily prayer times and forbids activities such as playing soccer or listening to music. In 2011, members of al-Shabaab executed dozens accused of murder or spying for the TFG or Kenyan forces, calling them "enemies of Islam;" amputated the hands of accused thieves; opened fire on Somalis playing soccer; and arrested men and women for failing to abide by the group's behavioral norms.

Al-Shabaab Killings of Christians/Converts: Al-Shabaab targets the very small and extremely low-profile Christian and Christian convert community. Although conversion is legal, it is socially unacceptable. In 2011, there were a number of societal attacks on converts, and al-Shabaab reportedly executed five converts. Proselytism is banned and also considered socially unacceptable. Christians worship secretly in house churches.

Al-Shabaab Attacks on Sufis: Over the years, al-Shabaab killed and attacked Sufi clerics and followers, destroyed Sufi mosques, desecrated the tombstones of Sufi saints, arrested Sufi clerics and prevented them from conducting classes or attending mosques because of their "questionable" Islamic views, and prevented pilgrimages to Sufi shrines. There were no reports of such attacks in 2011.

Recommendations for U.S. Policy

The U.S. does not have an embassy or on-the-ground presence in Somalia. In September 2010, the Obama Administration announced a "dual-track" policy. The first track continues U.S. policy supporting the TFG, primarily through training, equipping, and financing its security officers. The second track expands engagement with Puntland, Somaliland, and other areas outside of TFG control, focusing on service provisions and governance capacity to help fight extremism. Executive Order 13536 prevents certain persons contributing to the conflict in Somalia from owning and accessing investments in the United States. The U.S. government successfully has used drone strikes against al-Shabaab leaders. In response to the serious violations of religious freedom in Somalia, the U.S. government should:

- Engage TFG partners to make clear that the new constitution explicitly should include protections for religious freedom and human rights consistent with international law;
- Engage TFG partners to make clear they must fully respect universal human rights, including freedom of religion or belief, in its practices and laws;
- Urge the Special Representative of the UN Secretary-General for Somalia to make human rights, including religious freedom, a priority in his engagement with Somali actors;
- Engage government officials, religious leaders, and clan elders in Somalia, Somaliland, and Puntland on universal human rights, including freedom of religion or belief, and good governance;
- Increase funding for indigenous civil society organizations that promote human rights; and
- Increase engagement by the U.S. State Department and other relevant agencies with the Somali diaspora community in the U.S. on human rights, freedom of religion or belief, rule of law, and good governance.

Please see USCIRF's 2012 Annual Report for a more extensive review and recommendations on Somalia.