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RELIGIOUS FREEDOM IN KENYA

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Introduction.

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative Status before the United Nations Economic and Social Council¹. The purpose of this report is to highlight the human rights abuses in the Republic of Kenya [hereinafter Kenya] for the 2014 Universal Periodic Review (UPR). These abuses primarily result from the Kenyan government's inability to protect its citizens from terrorist attacks. The ECLJ has an affiliate office in Kenya that provides civic education as well as reliable policy and legislative information for the public². The information contained in this report was obtained from first-hand knowledge from our affiliate.

Despite Legal Protection Through the Kenyan Constitution and Various International Treaties, Christians and Their Places of Worship are Consistently Attacked.

2. The Constitution of Kenya specifically guarantees its citizens the right to life. Under Article 26, “every person has the right to life” and “a person shall not be deprived of life intentionally, except to the extent authorised by this Constitution or other written law.”³ Kenya's citizens are also guaranteed the right to not be “subjected to any form of violence from either public or private sources”⁴ and declares that every person has “the right to freedom of conscience, religion, thought, belief and opinion”⁵. Under the Constitution, Kenya has a duty to “observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.”⁶ Kenya is also a party to the International Covenant on Civil and Political Rights (ICCPR).⁷ Article 6 of the ICCPR guarantees that “every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”⁸ As a party to the ICCPR, Kenya has an obligation to ensure its citizens have the “freedom to . . . manifest [their] religion or belief in worship, observance, practice, and teaching”⁹. Each party to the ICCPR must “ensure that any person whose rights or freedoms . . . are violated shall have an effective remedy.”¹⁰ Despite a strong legal framework, Christians in Kenya are consistently attacked by radical Muslims. With an affiliated office in Kenya, the ECLJ is acutely aware of the fact that little action has been taken by the Kenyan government to protect its Christian population.

¹NGO Branch, U.N. Dep't of Econ. & Soc. Affairs, Consultative Status for the European Centre for Law and Justice (2007), <http://esango.un.org/civilsociety/> (accessed by searching “European Centre for Law and Justice” in the iCSO Database).

²*About Us*, EAST AFRICAN CENTER FOR LAW AND JUSTICE, <http://eaclj.org/> (last visited 7 May. 2014).

³CONSTITUTION, art. 26 (2010) (Kenya).

⁴CONSTITUTION, art. 29 (2010) (Kenya).

⁵CONSTITUTION, art. 32 (2010) (Kenya).

⁶CONSTITUTION, art. 21 (2010) (Kenya).

⁷*Status of Treaties, Ch. IV Human Rights, 4. ICCPR Status*, UNITED NATIONS TREATY COLLECTION, (29 Apr. 2014, 5:02 PM), http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en.

⁸International Covenant on Civil and Political Rights. art. 6, 16 Dec. 1966, 999 U.N.T.S. 171, *available at* <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁹*Id.* art 18.

¹⁰*Id.* art 2.

Islamic Terrorists Attack Christian Churches to Instill Fear and Retaliate for Actions taken by the Kenyan Government.

3. Even though Kenya's population is approximately 80% Christian¹¹, many Kenyans live in fear that their church will be attacked by Islamic terrorists. It is suspected that many of the attacks are carried out by Al Shabab, "Somalia's fiercest militant Islamist group"¹². While the terrorist group's motivations are sometimes hard to pin down, the escalation of attacks on Kenya's Christians came after Kenyan troops "stormed" anarchical Somalia in retaliation for a "string of kidnappings of Westerners in Kenya"¹³. In response, Al Shabab "vowed to wreak vengeance, saying it would topple Nairobi's skyscrapers and kill Kenyan civilians"¹⁴. Since making this promise, Al Shabab has carried out many attacks against the Kenyan population.

Christians and Their Places of Worship are Often the Focal Point for Deadly Shootings and Bombings.

4. The number of attacks on Kenya's Christians is daunting. In this report, we list six of the more prominent and violent attacks, but ECLJ's affiliate in Kenya notes that many other acts of violence against Christians occur in the country and go unreported. On 29 April 2012, a grenade was thrown into a church in Nairobi which killed one person and injured 15 others¹⁵. On Sunday, 1 July 2012, fifteen people were killed and forty people were wounded in two "coordinated" attacks on churches in the town of Garissa¹⁶. In the first attack, "Gunmen shot two policemen outside one of the churches, and grenades were then thrown inside"¹⁷. As the panicked congregation rushed to escape, gunmen fired on them"¹⁸. In the second attack, two grenades were thrown into the church but one failed to go off"¹⁹. On 30 September 2012, a bombing of St. Polycarp's Church in Nairobi left one child dead and at least three others injured²⁰. The attack took place during the church's Sunday school and, as one eyewitness put it, sent worshipers "[running] for their lives"²¹. On 9 June 2013, seven people were injured when attackers threw another grenade into a group of people gathered for prayer and worship outside a church in Mombasa²². On 23 March 2014, gunmen burst through the backdoor of another church in the

¹¹Religion, THE REPUBLIC OF KENYA, <http://republicofkenya.org/culture/religion/> (last visited 22 May 2014).

¹²Jeffery Gettleman, *At Least 15 Die in Kenya Church Attacks*, N.Y. TIMES, 2 July 2012, at A4, available at http://www.nytimes.com/2012/07/02/world/africa/at-least-15-dead-in-attacks-on-2-churches-in-kenya.html?adxnml=1&adxnmlx=1398320218-EN1RCAN6ZoA4EKAl/2sHEw&_r=1&.

¹³Jeffery Gettleman, *Kenyan Forces Enter Somalia to Battle Militants*, N.Y. TIMES, 17 Oct. 2011, at A4, available at <http://www.nytimes.com/2011/10/17/world/africa/kenyan-forces-enter-somalia-to-battle-shabab.html>.

¹⁴*Id.*

¹⁵Fredrick Nzwili, *Churches Attacked in Kenya, Nigeria*, FAITHSTREET (30 Apr. 2012), <http://www.faithstreet.com/onfaith/2012/04/30/churches-attacked-in-kenya-nigeria/21030>.

¹⁶*Kenya Church Attacks 'kill 15' in Garissa*, BBC NEWS (1 July 2012, 7:41 AM), <http://www.bbc.com/news/world-18662975>.

¹⁷*Id.*

¹⁸*Id.*

¹⁹*Id.*

²⁰*Deadly Kenya Grenade Attack Hits Children in Church*, BBC NEWS (30 Sept. 2012, 4:14 PM), <http://www.bbc.com/news/world-africa-19776747>.

²¹*Id.*

²²*At Least 7 Injured in Crusade Blast in Kenya's Mombasa*, XINHUA (6 June 2013, 2:05 AM), http://news.xinhuanet.com/english/africa/2013-06/10/c_132444861.htm.

city of Mombasa and opened fire on the congregation²³. The attack killed six worshipers and left the floor of the church covered in bullet casings and “blood-splattered Bibles”²⁴. While it was too late to stop this first attack, security forces successfully drove off the attackers before they were able to make their way to a second church in the area²⁵.

5. With this long list of attacks and a security force that is “widely considered weak and corrupt”²⁶, the Working Group on the 2014 UPR must urge Kenya to increase its protection of its citizens and strengthen its security forces so that attacks like these are prevented.

Conclusion.

6. The Working Group on the UPR must address the continuous violations of human rights caused by the violence that persists against the people of Kenya. The Kenyan government has been unable to stop the violent bombings and shootings carried out by Islamic terrorists. These attacks spread fear throughout Kenya’s Christian population and limit their ability to worship freely. While during the 2010 review, the Working Group did not specifically mention the serious issue of violence against Christians, the 2010 report did provide notice to Kenya of the international community’s concern with the ongoing impunity for perpetrators of violent crimes²⁷. The report indicated that enhancing security was a major concern²⁸, and Kenya was specifically asked to take measures to protect the population²⁹. Yet, since the 2010 UPR report was released, the number of violent attacks against Christians has significantly escalated. The Working Group must urge the Kenyan government to take the necessary steps to improve its security forces’ ability to capture and punish the perpetrators of these attacks and to prevent further attacks. The Working Group must insist that Kenya protect its citizens’ right to life and right to worship freely.

²³Joseph Akwir, *Gunmen Kill Six in Attack on Kenyan Church*, REUTERS (23 Mar. 2014, 4:27 PM), <http://www.reuters.com/article/2014/03/23/us-kenya-attacks-idUSBREA2M0AG20140323>.

²⁴*Id.*

²⁵*Id.*

²⁶Gettleman, *supra* note 13.

²⁷Rep. of the Working Group on the Universal Periodic Review, Human Rights Council, 15th Sess., 17 June 2010, ¶¶ 34, 60, 63, 88, 91 U.N. DOC. A/HRC/15/8.

²⁸*Id.* at ¶ 23.

²⁹*Id.* at ¶ 63.