

Legal framework

Kenya is a party to the International Covenant on Civil and Political Rights (ICCPR). The country's constitution stipulates there shall be no state religion, and prohibits religious discrimination. It provides for freedom of religion or belief (FoRB) individually or in communities, including the freedom to manifest any religion through worship, practice, teaching, or observance.

Violations of FoRB are primarily perpetrated by members and sympathisers of the Somali terrorist group al Shabaab. The al Hijra faction of al Shabaab consists predominantly of East Africans, most of whom are reportedly Kenyan nationals. Since October 2011 the group has attacked churches, security installations and villages. The areas of the country that border Somalia experience the majority of attacks.

Al Shabaab activity

In January 2020 al Shabaab terrorists perpetrated a sophisticated attack on a US military base near the coastal port of Lamu. The attack led to the deaths of three US nationals, the highest US casualty rate in Africa since 2017, and highlighted the weakness of the military base perimeter. Several valuable surveillance aircraft were also destroyed. There was also an attempt to enter a British Army base in Laikipia County in central Kenya, however, it is unlikely that the effort was connected to the attack on the US base.

The incidents indicated a shift by the terrorist group from solely targeting Kenyan security services, to the targeting of allies such as the USA, which provide significant counter-terrorism support to the governments of Kenya and Somalia. While al Shabaab continues to look for high profile targets, most of its attacks have focused equally on Kenyan security personnel and civilians.

Attacks on teachers in the Northern province are a continuation of a pattern noted in late 2018 and 2019, and the persistent attacks on non-Muslim and non-local teachers constitute a deliberate strategy that has been replicated in attacks on commercial passenger vehicles. Ethnicity and religion remain a focus for the group's attacks in Lamu (where it maintains a presence in the Boni Forest), Garissa, Mandera and Wajir counties, all of which border Somalia. There are also reports of al Shabaab terrorists executing individuals who fail to recite the Muslim profession of faith and Quranic verses.

On 4 January 2022, a suspected al Shabaab attack left six civilians dead and homes in Lamu county razed to the ground. On 7 January more than four officers died in an attack on a police convoy. The insecurity led to a 30-day dawn to dusk curfew.

In March the US Federal Aviation Authority (FAA) warned civilian aircraft that al-Shabaab is in possession of weaponry capable of downing planes flying at low altitudes across north-eastern Kenya and Somalia.

CSW has produced a detailed briefing on al Shabaab attacks [here](#).

Violations of freedom of religion or belief amid attempts to tackle terrorism

There are concerns that Kenyan authorities have committed human rights violations in their efforts to combat terrorism. Several domestic and international organisations have alleged that Kenyan police have been responsible for extrajudicial executions and torture.

The changing nature of the threat that al Shabaab poses highlights the need for a change in strategy by the state. The January 2019 attack on the DusitD2 hotel complex was one of the first in which the perpetrator was not ethnically Somali. The fact that the leader of the attack, Ali Salim Gichuge, was a 26-year-old Kenyan from the predominantly Christian Meru tribe indicates the terrorist group's ability to target and recruit marginalised individuals from ethnic groups that have no connections with Somalia or communities in neighbouring counties, and to manipulate historical fractures and conflict dynamics.

There is an urgent need for the government to address both local grievances and the societal exclusion of unemployed youth, which renders them vulnerable to recruitment by extremists offering a source of income.

Moreover, the failure to ensure that the human rights of civilians and even of suspects are respected in the fight against terrorism risks alienating local communities, undermining cooperation with intelligence gathering efforts, and causing some to sympathise with, and even join, the terrorist movement.

In an effort to build trust, Kenya initiated community policing to transform the police organisation into a people-centred service. However, a comprehensive programme of reform and democratisation is required to underpin this initiative and to ensure its effectiveness.

Kenya's Universal Periodic Review in January 2020

In January 2020 Kenya's human rights record was reviewed as part of the United Nation Human Rights Council's Universal Periodic Review (UPR) process. During the review, Kenya received and accepted seven recommendations relating to increasing efforts to counter terrorism, including recommendations from Haiti and the Solomon Islands which made specific reference to ensuring the protection of vulnerable Christian communities.

Kenya also accepted nine recommendations calling on the state to take steps to investigate instances of extra-judicial killings, including recommendations from Botswana and the Republic of Korea which made specific reference to extrajudicial killings within a counter-terrorism context.

In its [oral statement](#) at Kenya's UPR adoption, CSW welcomed Kenya's acceptance of recommendations to enhance efforts to combat terrorism and extremism by strengthening counter-terrorism measures in conformity with the law and international standards. CSW also welcomed the Kenyan government's acceptance of recommendations to protect religious or belief communities from terrorist groups, with

a view to tackling the root causes of religious radicalisation.

CSW further encouraged Kenya to increase its efforts to combat terrorism and ensure that its citizens, particularly non-Muslims in areas near the Somali border, including in Lamu and Garissa Counties, can practise their religion or belief without fear.

Attacks on houses of worship

In late January 2021, five church properties in Otamba village in Kisii County were damaged in a series of arson attacks that occurred between 1am and 3am over several days. The assailants also threw human faeces into the premises.

In the early hours of 20 January 2021, St. Monica's Catholic Church was attacked and its altar destroyed. This was followed by the burning of Worldwide Church, a Legio Maria Church building, and the offices of the Seventh Day Adventist Church on 21 January 2021. Finally, on 24 January 2021 the Pentecostal Church premises was burned. On 26 January 2021 ten people were arrested in connection with the arson attacks.

Recommendations

To the government of Kenya:

- Continue efforts to clear the Boni forest and surrounding areas of al Shabaab fighters and increase the numbers of security personnel deployed to the coastal region to protect civilians.
- Strengthen counter-terrorism efforts with a particular focus on Lamu and Garissa Counties.
- Ensure that the humanitarian needs of communities displaced or affected by al Shabaab violence in Lamu and Garissa Counties are met.
- Bring to justice any police officers found guilty of receiving bribes or engaging in other forms of corruption that undermine the rule of law and mitigate against efforts to combat terrorism and criminality.
- Conduct coordinated assessments, along with the government of Somalia, of the al Shabaab counter-terrorism strategy and its potential impact on civilians, ensuring that all counter-terrorism measures fully respect Kenya's national and international obligations.
- Conduct detailed investigations into allegations of extrajudicial killings, torture and enforced disappearances, ensuring that perpetrators are brought to justice.
- Issue a standing invitation to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.
- Strengthen human rights training within the security forces to ensure that officers operate in accordance

with Kenya's constitutional and international legal obligations.

- Urgently formulate poverty alleviation and income generating initiatives targeting unemployed youth, to render them less susceptible to financial inducements from terrorist recruiters.
- Address and resolve historical grievances that are manipulated by al Shabaab to recruit Kenyan nationals to its cause.

To the United Nations and Member States:

- Strengthen counter-terrorism cooperation and support for Kenya, with a focus on the Lamu and Garissa Counties.
- Assist the Kenyan Government in meeting the humanitarian needs of communities displaced or affected adversely by al Shabaab violence in Lamu and Garissa Counties.
- Call on Kenya to conduct impartial and timely investigations into violations against religious or belief minorities, ensuring that perpetrators are held to account.
- Ensure that the concerns highlighted in this briefing are consistently raised in public and in private with Kenya, including during high-level visits and other bilateral exchanges.

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