

Introduction

1. CSW is a human rights organisation specialising in the right to freedom of religion or belief (FoRB).
2. This submission seeks to draw the Council's attention to the ongoing grave human rights violations in the Republic of Kenya, ahead of the state's fourth Universal Periodic Review (UPR).
3. Kenya accepted 261 of the 319 recommendations given during the 3rd cycle of the UPR in January 2020.¹ Among these, Kenya accepted five recommendations pertaining to the right to FoRB, including calls to increase efforts to ensure that the right to FoRB is fully promoted and protected; that all of Kenya's religious communities, and particularly Christians, are able to practise their religion without fear of being targeted by terrorist groups, to address discrimination and to tackle the root causes of religious radicalization.²
4. The reporting period overlapped with the Coronavirus pandemic, and the election of a new government led by former Vice President William Ruto.

Peaceful Protest, Economic and Social Rights

5. Mass protests led primarily by Kenya's Generation Z, began in the wake of the announcement by the government of the Finance Bill 2024/2025, which proposed to reduce the budget deficit and borrowing, and fund development projects, by raising \$2.7 billion in additional taxes.³ Protestors have demanded the repeal of the Finance Bill and political change, and called out the Bill's punitive administrative measures and controversial tax hikes. Many citizens believe the hikes would merely serve to further corruption and fund the extravagant lifestyles of many government officials rather than improve public services.
6. Many citizens were already struggling with the cost of living and the new Finance Bill would have meant additional levies on basic commodities, such as a 16% levy on bread, vegetable oil and sugar, and a new motor vehicle circulation tax at an annual charge of 2.5% of the value of a car, among others.⁴ In addition to the mass demonstrations

that were supported across the country, the government's tax policies failed to adequately consider the economic, social and cultural rights of Kenyans, particularly those who struggle to secure adequate housing, food and access to healthcare.

7. Despite being largely peaceful, the anti-tax demonstrations that have rocked Kenya since June 2024 have seen at least 39 deaths, with allegations of the use of excessive and lethal force by the police and security agents. In addition, hundreds of peaceful protestors were arrested, largely in June and July 2024, and there have been reports of involuntary or enforced disappearances.
8. On 25 June, police officers opened fire on the crowds in Nairobi that had gathered around Parliament. Moments later, after the Finance Bill was passed by vote, and protestors briefly stormed the building. On this day alone the Law Society of Kenya secured the release of over 300 people illegally detained by the police.⁵
9. President Ruto announced on 26 June that he would no longer sign the Finance Bill into law following mounting public pressure. His attempts to regain control and propose a dialogue with youth, civil society, religious organisations and others on the Bill have been overshadowed by violations committed under his administration, including by police officers who used lethal force from the outset against the unarmed, largely peaceful protestors, and the Kenyan army, which was brought in to restore order following approval by Kenya's High Court.
10. On multiple occasions the police used disproportionate lethal force to disperse largely peaceful demonstrations, despite the state accepting a recommendation from Poland (142.153) during the previous UPR cycle to 'Ensure unimpeded functioning of democratic processes in the country, including transparent regulations on exercising the right of assembly and the use of force by police only as a means of last resort and solely in fully justified situations.'⁶

Attacks on places of worship

11. On 25 June, when All Saints Cathedral, Nairobi

1 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya Addendum', A/HRC/44/9/Add.1, 6 July 2020, <https://documents.un.org/doc/undoc/gen/g20/163/87/pdf/g2016387.pdf>

2 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya', A/HRC/44/9, (Recommendations by: Timor-Leste, 142.246; Haiti, 142.151; Solomon Islands, 142.152; Solomon Islands, 142.150; Cyprus, 142.61), 20 March 2020, <https://documents.un.org/doc/undoc/gen/g20/070/40/pdf/g2007040.pdf>

3 Reuters, 'Explainer: What's next after Kenya withdraws finance bill amid protests?', 25 June 2024, <https://www.reuters.com/world/africa/kenyas-finance-bill-why-has-it-triggered-protests-2024-06-25/>

4 Reuters, 'Explainer: What's next after Kenya withdraws finance bill amid protests?', 25 June 2024, <https://www.reuters.com/world/africa/kenyas-finance-bill-why-has-it-triggered-protests-2024-06-25/>

5 Kenyan National Commission on Human Rights, 'Retreating into the dark abyss of violations and atrocities! Current state of Human Rights in the Nation' <https://www.knchr.org/Articles/ArtMid/2432/ArticleID/1199/Retreating-into-the-dark-abyss-of-violations-and-atrocities-Current-state-of-Human-Rights-in-the-Nation>

6 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya', A/HRC/44/9, (Recommendation by: Poland, 142.153), 20 March 2020, <https://documents.un.org/doc/undoc/gen/g20/070/40/pdf/g2007040.pdf>

opened its gates to over 3000 people peacefully exercising their right to protest, armed police threw teargas canisters and shot live rounds indiscriminately into the Cathedral's compound, affecting those seeking refuge and a service that was taking place in the premises. The church also housed a medical centre treating the injured, including members of police and security teams who were on duty that day.

12. Civilians caught in the violence reported they were forced to crawl from the main gates of the Cathedral until they reached the main sanctuary as live rounds flew overhead. At approximately 4.30pm, a contingent of military officers overran the Cathedral gates and stormed the compound threatening everyone they found there. Officers then ordered everyone to lie on the ground as they shot indiscriminately, leaving several bullet casings.
13. Cathedral personnel attempted to evacuate as many people as possible from the grounds. Staff, including the Cathedral provost, administrative staff and religious leaders, formed a buffer outside the Cathedral for four hours preventing security personnel from gaining further access to the place of worship and what they feared would be a confrontation with unarmed protesters that would have resulted in a massacre.⁷
14. One protestor informed CSW: 'We were caged in from 5pm until 11pm. We crawled from the gate [of the Cathedral] into the sanctuary while being shot at.' The protestor was holding a bullet casing and said 'This is the one that bounced off the floor where I was lying prostrate. It missed me by a whisker.' The protestor said that they were in a group comprised of six people who were moving together from the Cathedral gates to the sanctuary, one of whom died.
15. In Nakuru, on 16 July 2024, police stormed the Chosen Generation Church where Reverend Patrichia Benson was leading a lunchtime prayer service. CCTV footage shows security personnel storming the service and forcing all in attendance

to lie on the floor while they fired live rounds. Church leaders later held a press conference where they condemned the excessive use of force by police in a place of worship.⁸

Enforced disappearances

16. June, July and August 2024 saw at least 72 documented cases of abductions and releases that may amount to involuntary or enforced disappearances. Some of those targeted are prominent campaigners, and opposition politicians, many of whom are believed to have been taken by security forces in unmarked vehicles. Their families search numerous police stations, hospitals and even morgues, trying to find their whereabouts. Ongoing impunity and a lack of accountability delay justice for victims and their families.
17. CSW therefore regrets Kenya's decision to note recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED) during the last UPR⁹, and the lack of progress made towards implementing accepted recommendations to investigate all allegations of extrajudicial executions, enforced disappearance and excessive use of force by security forces, to hold perpetrators to account, and improve measures to provide redress to victims.¹⁰

Attacks on journalists

18. On 16 July journalist Catherine Wanjeri was covering demonstrations in Nakuru County for the privately-owned MediaMax Limited media group, and was shot by police officers four times. She needed surgery to remove three rubber bullets lodged in her body. The journalist reported a police officer threatening her as he covered demonstrations earlier in the month.¹¹ In September reports emerged that Ms Wanjeru was receiving death threats, which she believes are aimed at intimidating her into dropping her case against police.¹²
19. Activist Boniface Mwangi was detained on 25 June

7 Facebook: 'Statement by the Provost of All Saints' Cathedral, Nairobi on the recent "reject finance bill" protests.' 30 June 2024, <https://www.facebook.com/watch/?v=984134229873665>

8 Mwakilishi, 'CCTV Footage Reveals Police Raid on Nakuru Church', 16 July 2024, <https://www.mwakilishi.com/article/kenya-news/2024-07-16/cctv-footage-reveals-police-raid-on-nakuru-church>

9 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya', A/HRC/44/9, (Recommendations by: France, 144.10; Seychelles, Honduras, 144.11.1; 144.11.2), 20 March 2020, <https://documents.un.org/doc/undoc/gen/g20/070/40/pdf/g2007040.pdf>; United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya Addendum', A/HRC/44/9/Add.1, 6 July 2020, <https://documents.un.org/doc/undoc/gen/g20/163/87/pdf/g2016387.pdf>

10 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya', A/HRC/44/9, (Recommendation by: Italy, 142.19; Finland, 142.56; Republic of Korea, 142.90; Australia, 142.137; Austria, 142.138; Czechia, 142.140; Botswana, 142.142; Germany, 142.145; Costa Rica, 142.146; United Kingdom, 142.147; United States, 142.148; France, 142.144), 20 March 2020, <https://documents.un.org/doc/undoc/gen/g20/070/40/pdf/g2007040.pdf>

11 The Nation Kenya, 'Nakuru journalist shot by police: 'Nobody can convince me I was not the target'', 22 July 2024, <https://nation.africa/kenya/counties/nakuru/nakuru-journalist-shot-by-police-nobody-can-convince-me-i-was-not-the-target-4695820>

12 Women Press freedom, Kenya: 'Catherine Wanjeri Kariuki Shot by Police Now Receives Death Threats', 3 September 2024, <https://www.womeninjournalism.org/alerts/kenya-catherine-wanjeri-kariuki-shot-by-police-now-receives-death-threats>

on Koinage Street, Nairobi, along with four others, for allegedly inciting violence, breaching peace and blocking a road with a white coffin and seven white crosses, with the names of people killed by police during the protests. The group were released on a cash bail of KSh20,000 each (approx. \$155 USD).¹³

20. In a separate, more recent incident on 24 September, Mr Mwangi attempted to deliver a list of all those abducted and killed during the protests to the Office of the President, only to meet with an attempted abduction by masked police officers, in broad daylight and in front of witnesses and media. He had an official meeting scheduled with the presidency's office¹⁴
21. Reports of the silencing of government critics and dissenting voices, attacks on journalists and human rights defenders and enforced disappearances of protestors are deeply concerning and reflects the lack of implementation of recommendations accepted during the third UPR cycle to ensuring the safety of journalists, as well as guaranteeing the freedoms of expression, of the press, of association and of peaceful assembly.¹⁵

Counterterrorism

22. Terrorist attacks continued to occur in Kenya throughout the reporting period, and individuals have often been specifically targeted on the grounds of ethnicity and/or religion. In areas bordering Somalia where the dominant ethnic group is Kenyan Somali, individuals from other ethnic groups, Christians and other non-Muslims are targeted. On some occasions, Muslims have also been killed for attempting to help those under attack, or for condemning al Shabaab.

Counterterrorism response to al Shabaab

23. During the third UPR cycle, Kenya accepted a recommendation from Timor-Lest to 'step up efforts to eliminate the social, economic and political marginalization of children and youth who belong to the Muslim community or to the Somali ethnic group'.¹⁶
24. However, in November 2019, ethnic-Somali communities living on the Kenya-Somalia border

reported that they were caught between al-Shabaab on the one hand and the Kenya Defence Forces (KDF) on the other. The villagers maintain they experience a cycle of persecution, and that the KDF, whose job is to protect them, rarely does so. Instead, the army accuses Kenya's ethnic Somali population of joining forces with al-Shabaab, and frequently round them up as a form of collective punishment for al-Shabaab attacks in the region. The KDF denies these allegations, but does not allow for any external investigation into the situation. Members of these communities are frequently forced to join the KDF and found dead several weeks later, which has caused some in the community to join forces with al-Shabaab to avenge their mistreatment.

25. North-Eastern Regional Commissioner Nicholas Ndalana confirmed that Special Forces killed six al Shabaab terrorists in Jirole, Garissa County in the early hours of 13 March 2020. One militant was injured and receiving treatment. The police expressed hope that he would help with their investigations into the activities of the group.¹⁷
26. The KDF confirmed that it had killed 12 al Shabaab militants after raiding their base in Boni Forest, Lamu County on 19 March 2020. During the attack one of the group's commanders in the region was also killed. The commander had been responsible for providing intelligence and logistical support to the group based in Boni Forest,¹⁸ which is a known al Shabaab hideout. The Kenyan government launched a multi-agency operation named Linda Boni in September 2015 to flush out the elite al Shabaab group that has been operating from the forest since 2012.
27. On 21 March 2020 security agencies reported they had successfully repelled ten heavily armed al Shabaab terrorists. The militants were attempting to enter H-Young Construction Company's camp in Milihoi area in Lamu.¹⁹ They were making a second attempt to enter the camp when they were repelled by the KDF on 9 February 2020. Militants reportedly fled back into Boni forest, and security agents increased their patrols of the area, urging the public to report anyone acting suspiciously.

13 The Nation Kenya, 'Activist Boniface Mwangi and four others freed on cash bail', 26 July 2024, <https://nation.africa/kenya/news/activist-boniface-mwangi-and-four-others-freed-on-cash-bail-4703328>

14 Boniface Mwangi, Instagram Post, 24 September 2024, https://www.instagram.com/p/DATzliRuNRT/?img_index=9

15 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya', A/HRC/44/9, (Recommendation by: Estonia, 142.143; Australia, 142.154; Czechia, 142.155; Greece, 142.157), 20 March 2020, <https://documents.un.org/doc/undoc/gen/g20/070/40/pdf/g2007040.pdf>

16 United Nations, 'Report of the Working Group of the Universal Periodic Review: Republic of Kenya', A/HRC/44/9, (Recommendation by: Timor-Leste, 142.246), 20 March 2020, <https://documents.un.org/doc/undoc/gen/g20/070/40/pdf/g2007040.pdf>

17 Daily Nation, 'Six Shabaab militants killed, one captured', 13 March 2020, <https://www.nation.co.ke/counties/garissa/Six-suspected-Shabaab-militants-killed-one-captured-/3444784-5489520-s2pydz/index.html>

18 Daily Nation, 'KDF troops kill 12 suspected Al-Shabaab in Boni Forest raid', 19 March 2020, <https://www.nation.co.ke/news/KDF-kill-12-suspected-Al-Shabaab-in-Lamu/1056-5497376-12v9t6ez/index.html>

19 Daily Nation, 'Military, police foil terror attack on camp as Shabaab flee into forest', 23 March 2020, <https://www.nation.co.ke/news/Military--police-foil-terror-attack-on-camp-Shabaab-flee-/1056-5500808-dl1b2kz/index.html>

28. June 2023 saw the beginning of a significant surge in al Shabaab attacks across Mandera, Wajir, Garissa, and Lamu counties. In one particularly disturbing incident in July 2023, around 30 fighters attacked two sparsely-populated villages in Lamu county on 24 June killing five civilians, and beheading some of them. Terrorist attacks continued throughout the summer, occasioning a renewed KDF offensive along the Somali border in July 2023. In August 2023, the US also conducted a military operation in Lamu county.

Extra-judicial killings of suspected Al Shabaab returnees

29. On 31 December 2019 a man suspected of being an al Shabaab returnee was shot at close range and killed on New Year's Eve. Omar Salim Unda, 27, was returning to his home when his car was blocked by two other vehicles, causing him to veer off the road. He was subsequently dragged from the vehicle and shot three times in the head and neck.²⁰ Speaking to local media, Salim Unda, the father of the deceased, said they had had lunch together, and his son was called by an unknown person who asked to meet him that evening. He went to the meeting place, but the person did not arrive, and on his way back, the two vehicles chased him and blocked his path. 'It's extrajudicial killing; I can say that without fear, but I cannot say so, and so did this. It has been a case, he had a previous case; he was arrested, went to court for six months; he was not charged. He then trained as a welder and opened a workshop, but then he disappeared just like the others who were arrested previously.'²¹

30. Owen Baya Kilifi North MP said 'We must stop these extrajudicial killings in this country. If a person has any criminal case, let him be arrested, charged in court if he is proved to have committed those crimes, let him be jailed. But to come here and take the life of a young person the way they did here is something that must remain condemned.'²²

Police response to Coronavirus

31. The Kenyan government responded to the Coronavirus threat by applying restrictive measures on the general population. Public meetings were suspended, a curfew implemented, and all those arriving in Kenya from countries affected by the disease were required to observe strict quarantine. The government also severely restricted freedom

of movement across the country.

32. The policing of Coronavirus containment measures came under severe criticism. In one incident in 2020, 13-year-old Yassin Hussein Moyo was killed by a stray bullet when police descended on a community to implement a curfew. Shortly after the killing, the Kenyan president apologised for the use of excessive force.

33. Poorer communities appear to face a disproportionate response from the police during the Coronavirus crisis. The family of Yassin Hussein Moyo called for an investigation into his death, citing a pattern of police brutality on their predominantly Muslim community. His father, Hussein Moyo, accused police of entering communities with unnecessary force and creating panic and confusion as they fired teargas into homes and beat anyone in sight: 'We are fighting corona [virus] during the day, and we have to deal with bullets in the night'.²³

34. Impoverished communities also felt mistreated and marginalised. In large towns such as Kisumu, closure of the main markets caused a food shortage. One trader told reporters, 'Let them close the markets after they have given out food because hunger and coronavirus are two different things. Hunger kills in seven days and coronavirus kills in 14 days, so which one is more important, preventing hunger or coronavirus? If you don't prevent hunger, you are just killing your people.'²⁴

35. Police brutality in response to the Coronavirus, coupled with the economic consequences of shutdown for poorer communities posed a threat to marginalised youth who are rendered even more vulnerable to radicalisation. The police and security services owe a duty of care to ensure that their responses to crises, including public health ones is always proportionate, measured and within the law. The Kenyan government also has a duty to ensure the welfare of its citizens, with particular attention given to the most marginalised communities, thereby countering radicalisation.

Recommendations

36. Comply with human rights treaties to which the State is party, and uphold international obligations, including through the implementation of recommendations received from the human rights treaty bodies.

²⁰ Daily Nation, 'Mystery surrounds killing of 'Al-Shabaab returnee' in Kilifi', 2 January 2020, <https://www.nation.co.ke/counties/kilifi/Al-Shabaab-returnee-shot-dead-Watamu/1183282-5404768-1prdlg/index.html>

²¹ The Star, 'Al Shabaab returnee shot dead in Watamu by unknown people', 1 January 2020, <https://www.the-star.co.ke/news/2020-01-01-al-shabaab-returnee-shot-dead-in-watamu-by-unknown-people/>

²² Ibid.

²³ Ibid.

²⁴ France 24 'Probe ordered into fatal shooting of Kenyan teenager during virus' curfew, 31 March 2020, <https://www.france24.com/en/africa/20200331-coronavirus-kenya-shooting>

37. *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.*
38. *Increase efforts to clear Boni forest and surrounding areas of al Shabaab fighters, and increase the numbers of security personnel deployed to the coastal region to protect civilians.*
39. *Strengthen counter-terrorism efforts with a particular focus on Lamu and Garissa Counties and ensure that the humanitarian needs of communities displaced or affected by al Shabaab violence in Lamu, Garissa, Mandera and Wajir Counties are met.*
40. *Increase the numbers of security personnel deployed on targeted commercial routes to protect public transportation.*
41. *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 the rights of civilians and Kenya's national and international obligations.*
42. *Urgently formulate poverty alleviation and income generation initiatives targeting unemployed youth in particular, in order to render them less susceptible to financial inducements from terrorist recruiters.*
43. *Bring to justice any police officers found guilty of receiving bribes or engaging in other forms of corruption.*
44. *Conduct detailed investigations into allegations of extrajudicial killings, torture and enforced disappearances, ensuring that perpetrators are brought to justice.*
45. *Strengthen human rights education within the security forces to ensure that officers operate in accordance with Kenya's constitutional and international legal obligations.*
46. *Ensure that no individual is detained in connection with the peaceful exercise of their rights.*
47. *Immediately and unconditionally release all those detained in connection with the peaceful exercise of their fundamental rights, including the right to protest and free expression.*
48. *Ensure that all detainees are treated in accordance with the Mandela Rules and the Luanda Guidelines*

of the African Commission on Human and Peoples Right; that they are not subjected to torture, and are provided with adequate facilities and medical care when necessary.

**CSW everyone
free to believe**

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