

AMNESTY INTERNATIONAL REPORT 2020/21; THE STATE OF THE WORLD'S HUMAN RIGHTS; KENYA 2020

Police used excessive and sometimes lethal force to enforce a curfew and to disperse peaceful protests; they also carried out extrajudicial executions and enforced disappearances. Journalists and bloggers were subjected to harassment, intimidation and arbitrary arrests. COVID-19 movement measures were restrictive and undermined the right to health for women and for people from marginalized groups, and subjected refugees and asylum-seekers to further hardship. Women continued to face inequality. The authorities forcibly evicted thousands of people, and the President disregarded the Constitution by failing to appoint superior court judges.

Background

In response to the COVID-19 pandemic, on 27 March the President invoked the Public Order Act to impose restrictions, including a three-month nationwide curfew between 7pm and 5am. It was extended in June and again in November but with the hours reduced to between 10pm and 4am.

EXCESSIVE USE OF FORCE

In January, residents of the Kasarani district in the capital, Nairobi, peacefully demonstrated against the poor state of roads in their neighbourhood. Police officers responded by firing live ammunition at them, killing a 17-year-old boy.

The use of excessive force by police escalated after the curfew was imposed in response to the COVID-19 pandemic. Officers shot at and beat people for violating the curfew, sometimes hours before the curfew was due to be imposed, and at least six people were killed by police officers in the 10 days following its introduction.

On 27 March, a police officer beat journalist Peter Wainaina with a baton while he filmed police kicking, slapping and firing tear gas at commuters, as they rushed them to board a ferry ahead of the curfew.

In June, police officers killed a man in Lessos in Nandi County when they fired live ammunition into a crowd of motorcycle taxi drivers protesting after one of their colleagues was arrested, allegedly for not wearing a face mask. When the protesters marched to the police station the police shot dead two other men. The Independent Police Oversight Authority said it had launched an investigation into the killings. No findings were made public by the end of the year.

EXTRAJUDICIAL EXECUTIONS AND ENFORCED DISAPPEARANCES

There were 144 extrajudicial executions and 11 people were subjected to enforced disappearance during the year. In February, the Senate began a formal inquiry into these crimes. However,

COVID-19 restrictions on movement of people prevented its evidence-gathering hearings from proceeding.

There was a spike in the number of extrajudicial executions while security forces enforced the curfew. On 28 March, police officers beat Hamisi Juma to death, near Zibani village, after he drove a woman in labour to hospital at night during the curfew.

On 30 March, 13-year-old Yassin Moyo was shot dead by a police officer in Eastlands in Nairobi while he was playing on his balcony after the 7pm curfew. A police officer was charged with his murder in June.

In April, the Interior Minister said that 14 police officers accused of gross misconduct during the curfew period had been suspended pending investigation.

Later that month, Michael Njau, a social justice activist, his cousin and a taxi driver disappeared while travelling from Thika to Nairobi. Two days later, police discovered their abandoned car. There was no evidence to implicate the police, but Michael Njau's colleagues said he had received threats for his work on police killings. The men's whereabouts remained unknown at the end of the year.

FREEDOM OF EXPRESSION

Police intimidated, harassed and attacked journalists and bloggers as a means to silence them. On 29 March, three journalists were arrested for allegedly violating the curfew, despite their legal exemption from curfew restrictions.

Several bloggers and journalists were arrested and charged under the Computer Misuse and Cybercrimes Act for publishing what the government deemed to be misleading information about COVID-19 (which it said amounted to incitement of the public against the government), or for publishing corruption allegations. In August, Milton Were and Jack Okinyi were arrested by Directorate of Criminal Investigations (DCI) officers after they had published a story on alleged mismanagement of public funds, and detained overnight at Muthaiga police station in Nairobi. Nyukuri Barasa and Charles Gichuki were also arrested by DCI officers in August for, among other things, publishing information exposing government corruption. Nyukuri Barasa was detained at Kilimani police station and Charles Gichuki was detained at Capitol Hill police station, both in Nairobi. They were both released without charge the next day.

FREEDOM OF MOVEMENT

In March, the Health Ministry issued directives requiring everyone entering the country to report to quarantine centres. Anyone who violated the public health guidelines by not wearing a mask or flouting the curfew, for example, could also be held in quarantine. According to the Ministry, around 2,000 people were quarantined. Many of them said they were ill-treated and exposed to increased health risks. Physical distancing measures were not followed, sanitary conditions were poor, and there was inadequate food. Those confined were not informed of how long they would spend in quarantine and were charged excessive fees.

Hospitals detained patients, or refused to hand over the bodies of those who died to their families because of unpaid medical bills, something the High Court had ruled to be illegal in 2018. Dennis Bwire was detained by a private hospital for three months after his discharge date and released in July following a civil society campaign.

RIGHT TO HEALTH AND WORKERS' RIGHTS

In August, hundreds of public hospital doctors held a week-long strike over delayed salaries, inadequate PPE, and lack of medical insurance.

Meanwhile, the Auditor General reported a KES2.2 billion (US\$20 million) corruption scandal at the Kenya Medical Supplies Agency in which PPE that had been donated to the government was allegedly stolen. Most front-line medical staff were forced to buy their own PPE, and if they became infected with COVID-19 they had to cover the costs of their own treatment.

The COVID-19 curfew and the fear of police deterred people from moving at night and restricted access to maternal health care for many women. Some women were unable to get to hospital during labour, and pregnant women reported being verbally and physically assaulted by police when they sought health care during curfew hours.

FORCED EVICTIONS

On 4 May, the Nairobi Water Company, accompanied by police, forcibly evicted 7,000 people from their homes at the Kariobangi Sewerage settlement in Nairobi, one day after a court ordered a temporary halt to the evictions. Their homes and other buildings were demolished to make way for a sewerage system with only two days' notice, in violation of international human rights standards and Kenyan law. On 11 May, following a public outcry, the Interior Ministry announced a moratorium on evictions during the COVID-19 pandemic.

Although the moratorium halted 13 evictions planned to make way for sanitation facilities, other evictions continued. On 15 May, the authorities forcibly evicted over 1,000 people in Ruai ward in Nairobi, rendering them homeless. In October, the Kenya Power and Lighting Company demolished 3,000 homes in Dagoretti Corner, an informal settlement in Nairobi.¹

In September, the EU withdrew funding for a €31million (US\$35 million) conservation project, in response to forced evictions and other human rights violations against the Sengwer Indigenous community in Embobut Forest. In 2018, it had suspended funding when a Kenya Forest Service guard killed a Sengwer Indigenous man.

WOMEN'S RIGHTS

Although the government increased investment to address violence against women, to improve women's economic participation and increase access to health and education, women remained disadvantaged and under-represented in most public and private spheres.

Parliament failed to enact laws which would ensure gender equality in accordance with the Constitution's "two-thirds gender rule". As a result, in September the Chief Justice advised the President to dissolve the legislative body.

The two-thirds rule stipulates that the National Assembly and Senate shall not be made up of more than two thirds of members from one gender.

RIGHT TO TRUTH, JUSTICE AND REPARATION

Relations between the National Executive and the judiciary remained tense after the Supreme Court nullified the presidential election results in 2017. The President ignored his constitutional obligation and a High Court order to appoint 11 judges to the Court of Appeal, and 30 judges to the High Court. In January, Court of Appeal hearing centres outside Nairobi were forced to close due to a shortage of judges, and many hearings were postponed until 2022.

Senior public officers continued to disobey court orders. In January, the government violated a court ruling when it prevented Miguna Miguna, a government critic who was deported to Canada in 2018, from returning to Kenya.

Civil society organizations continued to fight for justice. Residents of the Owino-Uhuru settlement in Mombasa, together with the Centre for Justice, Governance and Environmental Action NGO, won damages from the state amounting to KES1.3 billion (US\$11.6 million) as compensation after a factory contaminated the community's land, resulting in some residents suffering lead poisoning. The government appealed against the decision.

REFUGEES AND ASYLUM-SEEKERS

In April, movement in and out of the Kakuma and Dadaab refugee camps was restricted under lockdown measures.

In May, Kenya closed its borders with Somalia and Tanzania, citing COVID-19 concerns. Reception and registration centres for asylum-seekers in urban areas and in the refugee camps remained partially closed at the end of the year. Over 13,000 new arrivals in Dadaab refugee camp, many of them from Somalia, were unable to register as asylum-seekers.

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1. [Kenya: Forced eviction leaves 3000 people homeless \(AFR 32/3151/2020\)](#)