

The State of the World's Human Rights; Kenya 2023

Security forces continued to enjoy impunity for extrajudicial killings, unlawful killings and enforced disappearances. The right to peaceful assembly was violated, with at least 57 protesters killed by the authorities in an attempt to suppress dissent. The authorities failed to take measures to protect the right to life. Trials of police officers accused of unlawful killings were repeatedly delayed. LGBTI people's rights were threatened by a proposed homophobic bill. Radical taxation reforms and the rising cost of living threatened Kenyan people's ability to sustain themselves. A proposed increase in individual health insurance contributions undermined the right to health for those who could not afford them. Five million people were at risk of acute food insecurity because of the prolonged drought. The government failed to promote the right to privacy of thousands of Kenyans who unknowingly sold private information to the WorldCoin company. Parliament took steps to abolish the death penalty.

Background

President Ruto's first year in office was marked by a spike in the cost of living, prompting nationwide demonstrations.

On 9 October, the high court put a temporary block on the deployment of 1,000 police officers to assist the Haitian National Police in tackling widespread gang violence, pending a petition filed by the Thirdway Alliance Party. Civil society organizations also objected to the deployment, citing the Kenyan police's continued unlawful use of force, especially against protesters. A few days later a cabinet resolution was passed to deploy officers to Haiti, but on 24 October the high court extended the block. The intended deployment, which was backed by the UN Security Council and the US government, was approved by parliament in November but had not been implemented by the end of the year.

Extrajudicial executions and enforced disappearances

There were 136 extrajudicial executions during the year. Most of the victims died while in police custody or had last been seen in police custody. Only 28 cases, including from previous years, were subject to judicial proceedings.

There was insignificant progress towards holding police officers accountable for extrajudicial killings, including in the case of at least 37 bodies found in Yala River, and other bodies found elsewhere, in 2022. The government failed to implement the National Coroners Service Act, which includes a provision that provides for the creation of an office of the coroner general to coordinate investigations into unexplained killings.

In February, Lilian Waithera was killed by an unidentified assailant while assisting in an anti-corruption case against senior government officials. A suspect was arrested but there was no further information from the authorities regarding the investigation into her killing.

Ten men were forcibly disappeared. The government failed to facilitate prompt, thorough, impartial, independent, transparent and effective investigations into enforced disappearances or extrajudicial executions or to ratify the International Convention against Enforced Disappearance.

Freedom of expression and assembly

Between March and July, police used excessive force to disrupt and prevent protests against the increasing cost of living and alleged 2022 electoral irregularities. According to the Independent Policing Oversight Authority, 57 people were killed during the demonstrations. Amnesty International verified 30 of these cases, attributing the deaths to live bullets, blunt force trauma, and smoke inhalation as a result of tear gas. Police officers also used water cannons against protesters and assaulted them. During this period, emergency healthcare providers, journalists, human rights defenders and activists could not access their places of work due to road closures and disruptions along their usual routes. Health workers could therefore not provide emergency services.

The National Police Service refused to acknowledge several protest notifications and declared planned demonstrations illegal. The government attempted to further restrict the right to peaceful assembly by adding provisions to the Public Order Act, which undermined constitutional protections.

In October, the police disrupted at least one private meeting organized against ongoing Israeli attacks on Gaza. The government had expressed its support for Israel.

Right to life

For six years, the authorities failed to investigate reports of abuses against hundreds of people, allegedly carried out by Good News International Ministries in Kilifi county. In March, mass graves were discovered containing the bodies of at least 428 people, including at least nine children, according to a senate committee's report. Media sources attributed the deaths to leaders of Good News International Ministries. Post-mortems revealed that they had suffered starvation, blunt force trauma and strangulation. In April, some of the suspected perpetrators were arrested and were facing trial for terrorism-related charges. They included the leader of Good News International Ministries who was also sentenced to 12 months' imprisonment for operating a film studio and producing films without a licence.

Right to truth, justice and reparation

There was no progress in court cases against police officers charged with unlawful killings. The case of a police officer accused of killing two unarmed boys in Eastleigh, Nairobi, in 2017 was yet to be heard. The case against the police officer accused of killing Yassin Moyo, a 14-year-old boy, in 2020 during the Covid-19 curfew, was yet to be heard, having been adjourned several times. The case against the officer accused of killing Carilton Maina in 2018 in the Kibera Laini Saba area was adjourned more than 10 times. Evans Njoroge, a Meru University student, was shot at close range during a peaceful protest in 2018. The case against the police officer accused of having followed and shot him was yet to be concluded.

The National Dialogue Committee, which was formed to hear Kenyan people's views, and to advise the government on national issues, including on the "anti-government" protests (see above, Freedom of expression and assembly), failed to effectively address police brutality and remedies for the 57 people killed, and for many others who were injured, during protests.

LGBTI people's rights

In February, the Supreme Court affirmed the right to freedom of association for LGBTI people, and directed the Non-Governmental Organizations Coordination Board to register associations representing LGBTI rights, without discrimination. The judgment sparked a backlash, including death threats against LGBTI people. In April, the Homa Bay Town MP, Peter Kaluma, proposed the

Family Protection Bill to parliament, which, if adopted, would further criminalize consensual same-sex sexual conduct and prescribe the death penalty for “aggravated homosexuality”.

In January, Edwin Chiloba, a gay man, was killed in what was described by the authorities as intimate partner violence. Government agencies failed to investigate allegations that his killing was motivated by his sexuality.

Economic and social rights

The government did not keep its promise to apply progressive taxation. In June, parliament passed the Finance Act 2023, which introduced new taxes and increased the cost of health insurance and pension contributions for salaried employees. It also introduced a housing levy and imposed a value-added tax on certain goods, doubling the price of fuel and essential commodities.

Later in June, the Finance Act was challenged at the high court’s Constitutional and Human Rights division, which stopped the national treasury from implementing the new increases. However, the National Treasury and Economic Planning cabinet secretary appealed against the decision on grounds that it would lead to a loss of KES 0.5 billion (around USD 3.25 million) a day. In July, the appellate court lifted the freeze on the implementation, paving the way for the increased taxes to be imposed.

Right to health

The government proposed an increase of 2.75% in the healthcare contributions of all salaried employees. The increase was likely to have an adverse economic impact on many Kenyans.

On 20 October, the government launched the Universal Health Coverage scheme to ensure accessible healthcare for all, in line with their 2022 manifesto.

The Ethics and Anti-Corruption Commission Report 2023 detailed incidents of corruption in health procurement processes.

Right to a healthy environment

In July, the government lifted a five-year ban on logging commercial trees, threatening native trees and forests.

In September, Kenya hosted the Africa Climate Week and the Africa Climate Summit, culminating in the Nairobi Declaration, which called for the adoption of financial models to fund initiatives ostensibly to address climate change, but which in many ways failed to effectively prioritize human rights and climate justice for Africa.

The drought in northern Kenya persisted for the fourth year, putting 5 million people including refugees at risk of acute food insecurity.

Refugees in Dadaab and Kakuma refugee camps remained vulnerable to extreme weather events. The camps are located in arid and semi-arid climate zones, exposing residents to high temperatures and low rainfall in confined and severely overcrowded areas. Refugees’ access to sanitation, water, food and other necessities was extremely limited.

Right to privacy

By June, the Kenyan government had digitalized 5,000 government services, which raised concerns among Kenyans about privacy rights. In July, the government's digital platform suffered a denial-of-service cyberattack (an attack intended to shut down a machine or network), which raised further doubts about the state's capacity to guarantee privacy.

In September, over 350,000 Kenyans "sold" their iris scans to WorldCoin, a US company, in exchange for cryptocurrency tokens worth KES 7,000 (around USD 45). In October, a court order halted this practice, and the Office of the Data Protection Commissioner revoked WorldCoin's registration status, citing breaches of the Data Protection Act 2019.

Death penalty

Kenyan courts continued to impose death sentences. In September, an MP introduced bills to remove the death penalty from legislation. Article 26(3) of the constitution, which permits the use of the death penalty, and the Armed Forces Act were not put forward for amendment. However, the Parliamentary Justice and Legal Affairs Committee initiated a law review to ensure that all acts prescribing the death penalty are amended in legislation.