

# KENYA

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## Republic of Kenya

Head of state and government: **Uhuru Muigai Kenyatta**

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**Attacks attributed to the Somali-based armed group, Al-Shabaab, increased. Police counter-terror operations resulted in several deaths and the arrest of hundreds of people. The authorities intensified measures to restrict and control the activities of civil society organizations. There were incidents of unlawful killing, rape, torture or other ill-treatment by the police. Violence against women and girls persisted.**

## BACKGROUND

Kenya's economy and security were affected by a number of violent attacks in north-eastern Kenya, in the capital, Nairobi, and the coastal towns of Mombasa and Lamu, which triggered the adoption of new security laws with wide-reaching human rights implications. Implementation of the devolved system of government continued although challenges remained including inconsistent policy, legal and institutional frameworks. County authorities demanded constitutional amendments to increase their share of national treasury resources. The trial of Deputy President William Samoei Ruto and journalist Joshua Arap Sang continued at the International Criminal Court while the Prosecutor withdrew charges against President Kenyatta.

## COUNTER-TERROR AND SECURITY

Violent attacks increased, mostly attributed to Al-Shabaab, an armed group operating in Somalia. Al-Shabaab claimed the attacks were in retaliation for the continued presence of Kenya's armed forces in Somalia, as part of the African Union Mission to Somalia (AMISOM). Grenade and bomb attacks resulting in fatalities and serious injuries

occurred in various places including in a restaurant, a densely populated market and on commuter buses. The majority of the attacks took place in northeastern Kenya, Nairobi, Mombasa and Lamu.

On 23 March, gunmen opened fire in a Mombasa church during a service, killing six and injuring at least 15 people.

On 15 June, gunmen attacked the town of Mpeketoni in Lamu County, killing at least 48 people. The gunmen also burned 44 vehicles and about 26 buildings. At least 14 other people were killed in two separate attacks in nearby villages on 16 and 24 June. Al-Shabaab claimed responsibility for the attacks but the authorities blamed local politicians. The Governor of Lamu County was arrested and released on bail on suspicion of being involved in the killings, but investigations failed to gather sufficient evidence against him. An investigation by the Independent Policing Oversight Authority (IPOA) into police action around the attacks found that the police response was slow and disjointed. A dusk-to-dawn curfew imposed in Lamu town in the aftermath of the killings was lifted on 24 December.

On 22 November, gunmen attacked a bus in Mandera, northeastern Kenya, killing 28 passengers. The gunmen reportedly separated Muslims from non-Muslims before killing the latter. On 2 December, 36 miners were killed in another attack at a quarry in Koromei, Mandera County. Following the attacks, the Inspector General of Police resigned; the Cabinet Secretary of Interior and Co-ordination of National Government was sacked. Also in December, the government hastily and without meaningful public participation enacted a new security law, amending numerous provisions in 22 existing laws with far-reaching human rights implications. Among other things, it creates new criminal offences with harsh penalties, limits the rights of arrested and accused people, expands the powers of intelligence officers to arrest suspects and monitor communications, and caps the number of

refugees in Kenya at 150,000. The law was enacted despite a chaotic and disorderly parliamentary sitting.

The police conducted a number of counter-terror operations during the year including in mosques believed to be recruiting and training young attendees to become jihadists. In February, seven people were reportedly shot dead while 129 were arrested when the police conducted an operation in a mosque in Mombasa. Most of those arrested were later released without charge. One man who was arrested during the operation has not been seen since.

In April, thousands of Somali refugees and asylum-seekers were arbitrarily arrested, harassed, extorted and ill-treated as part of a counter-terror operation known as “Usalama Watch” (see Somalia entry). Over five thousand individuals were forcibly relocated to refugee camps in northern Kenya and at least 359 others were expelled back to Somalia. In June, the High Court ruled that the forced relocation of refugees to camps was constitutional, contradicting a previous decision on the same matter. In July, the IPOA issued a report which concluded that, in addition to violating human rights, the operation was counter-productive as it engendered perceptions of ethnic profiling and discrimination among Somalis.

In November, the police conducted operations in four mosques in Mombasa. One person was shot dead during the operations while more than 300 were arrested. The police reported that they recovered grenades and other crude weapons from the mosques. The operations provoked violent clashes in Mombasa.

The Anti-Terror Police Unit continued to be accused by both local and international civil society organizations of human rights violations including extrajudicial killings and enforced disappearances. A number of Mombasa-based Muslim clerics were shot dead by unidentified assailants during the year; both radical and moderate clerics were targeted. On 1 April, a Muslim cleric

accused by the police of recruiting youths into Al-Shabaab was gunned down in a Mombasa street. In June, an anti-jihad cleric and chairperson of the Council of Imams and Preachers of Kenya was shot dead at a mosque. In November a Muslim cleric supportive of government efforts against radicalization was shot dead.

## **INTERNATIONAL JUSTICE**

The International Criminal Court (ICC) trial of Deputy President William Samoei Ruto and journalist Joshua Arap Sang for alleged crimes against humanity committed during the 2007/2008 post-election violence continued throughout the year. The trial was undermined by alleged witness intimidation and bribery, and the withdrawal of other witnesses. The Trial Chamber issued summonses to nine prosecution witnesses who no longer wished to appear voluntarily. By the end of the year, three of the nine witnesses had testified via video-link from an undisclosed location in Nairobi.

On 5 December, the ICC Prosecutor withdrew charges against President Kenyatta. He had been charged with crimes against humanity committed during the post-election violence. The Prosecutor explained that the evidence at her disposal was insufficient to prove President Kenyatta’s alleged criminal responsibility beyond reasonable doubt. She stated that efforts by her office to gather relevant evidence had been hampered by the death of several key witnesses, intimidation of prosecution witnesses leading to the withdrawal of at least seven testimonies, and non-co-operation by the Kenyan government. On 3 December, while rejecting the Prosecutor’s request for a further adjournment of the case, the ICC Trial Chamber ruled that the Kenyan government’s conduct in the case fell short of the standard of good faith co-operation but declined to refer a formal finding of non-co-operation to the Assembly of States Parties.

The ICC arrest warrant issued for Walter Osapiri Barasa had not been executed at the end of the year.

The government continued its efforts to discredit and weaken the ICC. In March, Kenya submitted to the UN Secretary-General five proposed amendments to the Rome Statute of the ICC, including that Article 27 be amended to preclude the ICC from prosecuting heads of state and government while in office. In November, the Kenyan government requested the inclusion of a supplementary agenda item titled “Special session to discuss the conduct of the Court and the Office of the Prosecutor”, to the provisional agenda of the 13th session of the Assembly of State Parties in December. The request was denied.

## **IMPUNITY - POST-ELECTION VIOLENCE**

Perpetrators of crimes committed during the post-election violence remained unpunished at the national level. In February, the Director of Public Prosecutions announced that a review of more than 4,000 post-election investigation files had failed to identify any prosecutable cases due to lack of evidence. In March a group of internally displaced people protested outside State House against the government’s failure to provide them with assistance. No concrete steps were taken to establish the International Crimes Division of the High Court or to implement the recommendations of the Truth, Justice and Reconciliation Commission.

Three civil cases filed by victims and civil society organizations challenging the failure of the government to address various violations committed during the post-election violence were still pending at the end of the year.

In October, an opposition political party submitted to Parliament a draft bill titled “The Post Election Violence Tribunal Bill - 2014”. The draft bill proposed the establishment of a tribunal to try perpetrators of crimes against humanity committed during the post-election violence. Provisions in the draft bill included trials in the absence of the accused, the

death penalty and posthumous convictions. The draft bill was pending at the end of the year.

## **POLICE AND SECURITY FORCES**

### **Police reforms**

In April, the National Police Service Commission Act was amended, subjecting the human resources functions of the National Police Service Commission (NPSC) to the authority of the Inspector General of Police. In June, the National Police Service Act was amended to make the Inspector General of Police responsible for all matters relating to the command and discipline of the police. The police operated without adequate resources and equipment. On 31 October, at least 19 police officers were ambushed and killed by armed bandits in Kapedo, Baringo County.

The vetting of police officers continued. At the end of November, the NPSC had vetted 198 police officers, 16 of whom were deemed unfit to serve in the force mainly for reasons related to corruption. The process was hampered by lack of finances, limited public participation, and the resignation of four key members of the vetting board. Local NGOs and the IPOA expressed concern that the process had failed to clean up the force and that it had not seriously taken into account the human rights record of police officers.

### **Human rights violations by police**

There were incidents of unlawful killing, rape and torture or other ill-treatment by police.

In August, a 14-year-old girl was shot dead when eight police officers stormed her family’s home ostensibly to arrest her uncle. Two police officers were subsequently charged with her murder.

In October, a woman who had gone to a police post to report an assault was reportedly raped by a police officer. The IPOA launched investigations into the incident.

During the year, at least two separate police county commanders issued public statements instructing police officers under their command to use lethal force against

suspected terrorists. The Kenya National Commission on Human Rights and the IPOA condemned the instructions as unlawful.

## **CRACKDOWN ON CIVIL SOCIETY ORGANIZATIONS**

The authorities intensified measures to restrict and control the activities of civil society organizations. In May, Parliament published a bill proposing amendments to the Public Benefits Organizations (PBO) Act. In October, an earlier proposal to limit foreign funding of NGOs to 15% was retabled in Parliament. In December, the government deregistered and froze the financial accounts of 510 NGOs that it said had not complied with the NGO law. Among these were 15 unnamed NGOs accused of financing terrorism. The government also issued a 21 days' notice to 10 international NGOs and two other local NGOs to submit audited financial accounts.

## **HOUSING RIGHTS - FORCED EVICTIONS**

In February, a taskforce established in 2012 to develop an evictions and resettlement law presented a proposed bill to the Cabinet Secretary for Land, Housing and Urban Development. In March, the Cabinet Secretary issued a public statement pledging to expedite the enactment of an evictions law. By the end of the year, the draft bill had not been submitted to Parliament for debate.

In October, the High Court ordered the government to pay compensation of 33.6 million shillings (US\$390,000) to residents of City Carton informal settlement in Nairobi, who were forcefully evicted from their homes in May 2013. The High Court ruled that the government was under an obligation to protect slum dwellers from forced eviction by third parties. By the end of the year, the government had not complied with a number of orders emanating from previous court decisions on the right to housing.

## **VIOLENCE AGAINST WOMEN AND GIRLS**

Violence against women and girls, including rape and other forms of sexual violence,

persisted. Despite a 2011 law prohibiting female genital mutilation (FGM), the practice continued in several parts of the country including in northern Kenya and among the Maasai, Kisii and Kuria ethnic communities. In June, hundreds of women and men from the Maasai community held two separate demonstrations protesting against the prohibition of FGM. The police took action against government local administrators who were alleged accomplices in acts of FGM. In April, a chief was charged in court after his two daughters underwent FGM, while another was charged with failing to report acts of FGM carried out within his administrative area.

In November in Nairobi, there were at least five incidents of public stripping and groping of women deemed by mobs of men to be indecently dressed. In one incident a police officer was part of a group of men on a commuter bus who groped and threatened a woman with rape. The perpetrators of the incident were charged in court with a number of offences. Following a public demonstration on 17 November calling on the authorities to take swift action to prevent and punish acts of violence against women, the police formed an Anti-stripping Squad to monitor and investigate incidents of public stripping of women.