

OPEN LETTER AND PRESS STATEMENT

To: Members and Observer States of the United Nations Human Rights Council

October 8, 2024

RE: OPPOSITION TO KENYA'S CANDIDACY FOR UN HUMAN RIGHTS COUNCIL SEAT OVER GROSS HUMAN RIGHTS VIOLATIONS AND ABOMINABLE GOVERNANCE ABUSES

Dear Excellencies,

I. Introduction

The undersigned civil society organizations write to express our strongest and deepest opposition to the Republic of Kenya's application for membership in the United Nations Human Rights Council for the 2025-2027 term.

The application dispatched by the Ministry of Foreign and Diaspora Affairs, via a letter referenced MFA.UN.15/74 VOL 26, is due for consideration on October 9, 2024, in New York. The dispatch, dated September 27, 2024, presents, among other things, the regime's "voluntary pledges and commitments...in advancing and protecting human rights for all", which are inconsistent with its actions.

In the dispatch, Kenya has further noted that its "strong adherence to human rights is evidenced by Kenya's membership in most of the key international instruments" and that it "remains dedicated to their full and effective implementation."

Your Excellencies,

Examining the practical realities of Kenya's current governance and human rights situation is critical. Two years into President William Ruto's term, Kenyans continue to witness a deeply entrenched culture of impunity. Many have fallen victim to gross and systemic human rights violations that verge on crimes against humanity, infringing on Kenya's national, regional, and international obligations.

As a party to international treaties, Kenya is bound to respect, protect, and fulfil human rights under international law. The Constitution of Kenya affirms in Article 2(5-6) that general rules of international law and any treaty or convention ratified by Kenya shall form part of its legal framework. Furthermore, the Constitution enshrines one of the world's most progressive Bills of Rights, with Article 19(1) declaring it integral to Kenya's democratic state and its social, economic, and cultural policies.

Human rights-centred governance is embedded throughout the Constitution, particularly in Chapter 9, Article 131(2), which mandates that the President's authority be exercised in a manner that respects the Constitution, safeguards the people's sovereignty, and ensures the protection of human rights, fundamental freedoms, and the rule of law.

Your Excellencies,

We affirm that the Ruto administration has failed to meet its obligations since taking office two years ago. The regime has committed serious atrocities and crimes against the public with little to no redress. The Kenya police and other state institutions have been the [main perpetrators](#) of these violations and abuses.

The closure of civic and democratic space, the capture and intimidation of other state organs—including parliament, constitutional commissions, and independent offices—and oppressive governance frameworks have made accountability for these injustices nearly impossible. This starkly contrasts [Ruto's opposition](#) to anti-people policies and his campaign commitment to [establish](#) a public inquiry into state capture under the previous regime.

Below, we cite some of the latest injustices for your consideration:

2. Some of the gross human rights violations and governance abuses

a) Unlawful killings, abductions, and enforced disappearances by the police

The Kenyan police have a long history of violently suppressing independent institutions and dissenting voices. Our policing system, rooted in the colonial and post-independence regimes, was designed to serve the narrow interests of the ruling elite at the expense of the people and their rights. Today, the police remain the state's primary agents of repression.

Over the past two years, police have committed massive violations against citizens. In the first six months of this year alone, police used excessive force against striking medics and residents of informal settlements opposing arbitrary displacements during floods. On May 8, 2024, police arrested 27 human rights defenders at Mathare Social Justice Centre and Ghetto Foundation, alleging riotous conduct. The activists were released after the Makadara law courts [dismissed](#) the charges as baseless.

The situation escalated between June and July 2024, when Kenyans protested the punitive 2024 Finance Bill in what became known as the Gen Z revolution. The National Police Service (NPS) and other security agencies responded with brutal force, leading to the deaths of at least 60 people. Police have also been responsible for numerous abductions, enforced disappearances of 65 individuals, and the unlawful detention of over 1,400 peaceful protestors.

These abuses continue unabated. On September 24, 2024, police [fired teargas](#) at the striking university workers' unions, including the Universities Academic Staff Union and the Kenya

University Staff Union. Police also made unlawful arrests as the workers peacefully marched to present a petition to Parliament and key government officials.

Recently, Trevor Mathege Mureithi, a first-year student at Multimedia University, was severely injured when police fired a teargas canister at him at close range. He remains in critical condition. Despite [calls](#) from the undersigned human rights organizations for accountability, the Kenyan government has taken no meaningful action.

But the police did not stop their brutal acts. On October 3, 2024, police armed with lethal crowd control weapons and live ammunition unlawfully dispersed a peaceful demonstration by Moi University students. Reports revealed that police used live ammunition to suppress the protest, further undermining the constitutional right to freedom of assembly. The constitution envisions the NPS as a professional, disciplined, and transparent service committed to respecting human rights, but this vision remains far from reality.

Your Excellencies,

Despite repeated calls from civil society for accountability, the regime has ignored these demands and even praised the unconstitutional and arbitrary actions of the police. This is a stark contrast to President Ruto's earlier commitment, as outlined in the [Kenya Kwanza Manifesto](#) and during his swearing-in ceremony on September 13, 2022, when he [vowed](#) that the police would kill no Kenyan. He [reiterated](#) this stance in several media interviews.

However, President Ruto has repeatedly praised the security forces for their handling of peaceful protests, although deaths, arbitrary arrests, and enforced disappearances of Kenyans have marred their actions. During a July 5, 2024, media briefing at State House, Ruto acknowledged the challenges of the previous two weeks, marked by loss of life, injuries, and property damage during the anti-2024 Finance Bill protests. He [promised](#) full support to the families of those affected, yet no concrete accountability measures were mentioned.

Interior Cabinet Secretary Prof. Kithure Kindiki has defended the police's excessive use of force during various public appearances. Notably, in September 2024, he appeared before the National Assembly's Security and Administration Committee, where he justified these actions. In addition, Prof. Kindiki has reiterated his support for the police excesses in multiple media interviews following the youth-led demonstrations, arguing that the use of force was necessary. Kindiki argued that using force was justified to protect critical national institutions despite no direct threats to such infrastructure. These statements reflect a government indifferent to human rights and fundamental freedoms guaranteed by Kenya's Constitution and international treaties.

The continued use of lethal crowd control weapons persists despite a progressive court order [banning](#) their use by police. This disregard for legal protections, alongside the failure of oversight mechanisms like the Independent Policing Oversight Authority (IPOA) to curb these abuses, is

alarming. The health risks of these weapons have been well-documented, including in a report by the Kenya Human Rights Commission (KHRC) and its global partners, [Lethal in Disguise 2](#).

b) Defiance of court orders

Over the past decade, [defiance](#) of court orders related to state violations has been a [major obstacle](#) to good governance and the rule of law in Kenya. A few examples illustrate this issue. During a January 2, 2024, burial, President Ruto openly [vowed](#) to disregard court rulings or injunctions that he believed hindered his government's agenda.

Recently, former acting Inspector General of Police Gilbert Masengeli exemplified this culture of impunity by [ignoring seven court orders](#) demanding that he disclose the whereabouts of three abducted human rights defenders—Jamil Longton, Aslam Longton, and Bob Njagi—who were taken by individuals believed to be police officers.

c) Weaponized regulatory frameworks

The current administration has weaponized regulatory frameworks to silence dissent, despite Ruto's earlier promises that the police would never again be used for political ends. On July 22, 2024, the Public Benefits Regulatory Authority [instructed](#) the Directorate of Criminal Investigations (DCI) to investigate 16 civil society organizations. Additionally, the government has used the Kenya Revenue Authority (KRA) to harass grassroots organizations critical to its governance.

Efforts to weaken independent media have also intensified. For example, the Communications Authority of Kenya (CAK) issued an advisory [warning](#) media houses against live coverage of public protests between June and July. The government also restricted its advertisements to some media houses, depriving them of critical revenue.

This regime has further weaponized the Community Registration Act to weaken grassroots Social Justice Centres. At the same time, the proposed anti-protest Bill threatens to undermine the right to peaceful assembly as enshrined in Article 37 of the Constitution. These actions followed calls by civil society for the government to acknowledge its misrule and address the suffering inflicted on Kenyans.

d) Social and economic governance decisions that are anti-people

This regime has made several anti-people social and economic governance decisions, including the oppressive Social Health Insurance Fund (SHIF), the flawed university funding model, a punitive taxation system, unaccounted public debt, and widespread corruption. Corruption remains deeply entrenched, with Prime Cabinet Secretary Musalia Mudavadi confirming in August 2024 that Kenya loses approximately Sh608 billion, or 7.8 per cent of its GDP, to corruption annually, according to the Ethics and Anti-Corruption Commission (EACC).

The arbitrary and violent displacement of people living in informal settlements in Nairobi during the floods between April and May 2024, which led to the loss of lives and property, is a stark example of the regime's disregard for the poor. While high-end estates in Nairobi were also affected by the floods, their residents were not subjected to the same level of [state-instigated dehumanization](#), torture, or degrading treatment.

We have also witnessed discriminatory access to state appointments and development based on ethnicity, region, and political affiliations, in violation of Article 27 of the Constitution. Additionally, the implementation of the two-thirds gender rule, as [advised](#) by the Supreme Court, remains unfulfilled.

These actions have adversely affected the realization of social and economic rights under Article 43 of the Constitution. The repression of civic organizing around these issues has also led to gross violations of civil and political rights.

3. Conclusion and call for truth, justice and accountability

Your Excellencies,

Kenya is a signatory to numerous international treaties and has obligations under international law, which are also enshrined in our Constitution. However, the current regime has failed to honor these commitments.

We have outlined Kenya's poor track record in upholding national and international human rights principles and its deliberate failure to address serious violations since this administration came to power two years ago. The regime continues to use state security and other agencies to commit atrocities that, by definition of the Rome Statute, amount to crimes against humanity.

Considering this, we urge the United Nations (UN) and the international community to reject Kenya's request for a seat on the UN Human Rights Council. Granting such a position would severely undermine the credibility and mandate of the UN and its ability to hold perpetrators accountable.

We call upon the UN to utilize its mechanisms to investigate the serious human rights violations in Kenya, establish the truth, ensure victims receive justice, and hold those responsible accountable before the UN Assembly of State Parties. The International Criminal Court (ICC) and Specialized Human Rights mechanisms should be dispatched to address these concerns.

Finally, we urge the African Union (AU) to immediately withdraw its support for Kenya's bid. Instead, the AU should leverage its Commission on Human and Peoples' Rights (ACHPR) and the African Court of Justice to ensure effective remedies and prevent future violations.

Yours sincerely,

Center For Memory and Development
Democracy Without Borders Kenya
Grace Agenda
Kariobangi Paralegal Trust
Kenya Human Rights Commission (KHRC)
Mazingira Institute
Muslims for Human Rights (MUHURI)
National Coalition For Human Rights Defenders
Usalama Reforms Forum