

Kenya

The Republic of Kenya is situated between Somalia and Uganda. The population is largely Christian (82%), with a large Muslim minority (11%), as well as a growing non-religious number (2.4%), with other religious minorities making up the rest of the population. In recent years, there has been growing terrorist violence in Kenya, which in part has contributed to new laws that put restrictions on press and speech freedoms. Kenya requested full membership to the Organization of Islamic Cooperation (OIC) in 2011.

Constitution and government	Education and children's rights	Family, community, society, religious courts and tribunals	Freedom of expression advocacy of humanist values
			<u>Expression of core humanist principles on democracy, freedom or human rights is somewhat restricted</u>
	<u>State-funded schools offer religious or ideological instruction with no secular or humanist alternative, but it is optional</u>	<u>Religious courts or tribunals rule directly on some family or 'moral' matters; it is legally an opt-in system, but the possibility of social coercion is very clear</u>	<u>Some concerns about political or media freedoms, not specific to the non-religious</u> <u>Concerns that secular or religious authorities interfere in specifically religious freedoms</u>
<u>The state is secular, with separation of religious and political authorities, not discriminating against any religion or belief</u>			

Legend

Constitution and government

In 2010, Kenya adopted a new constitution that stated there would be no state religion and lays out a secular system of law. The constitution appears to ensure many rights regarding speech, press, and freedom of religion or belief. However, there have still been reports of discrimination within society, with larger religious groups marginalizing smaller ones.

<state.gov/j/drl/rls/irf/religiousfreedom/index.htm>

The Constitution also allows Kadhis' courts to be used where all parties concerned describe themselves as Muslims. These courts are permitted to make rulings on matters relating to personal status, marriage, divorce and inheritance. But there is no mechanism for ensuring that vulnerable persons of Muslim background will not be pressured into using these courts. This includes individuals who may not even be Muslim but are socially pressured to conform anyway.

Education and children's rights

Olympic High School case

In a case regarded as a test of religious freedom in the country, a girl was sent home by Olympic High School, Nairobi over her dreadlocks. Her father went to court on January 14, 2019, suing the school for sending his daughter home for refusing to cut her dreadlocks. His lawyer, Wambua Shadrack, said the action amounted to discrimination on the basis of Rastafarian beliefs. Justice Chacha Mwita ruled that Rastafarianism is a religion, whose practices, including growing of dreadlocks, shouldn't be discriminated against in public institutions. "The fact that she keeps rastas should not have been the basis to chase her from school," the judge said, reiterating that: "School rules should never be applied in a manner that infringes on the students' Constitutional rights".
<nairobinews.nation.co.ke/editors-picks/livty-kenyans-divided-over-landmark-rastafarian-judgment>

Family, community and society

There is significant religious influence on social and moral issues, detrimental to human rights standards and equalities.

Homophobia and transphobia is common. "Openly gay or transgender people are vulnerable to physical violence, harassment and intimidation."

<equalrightstrust.org/ertdocumentbank/In_the_Spirit_of_Harambee.pdf>

In 2014, lawyer and human rights activist Achieng Maureen Akena argued: "This link between religion and oppression is particularly visible today in Kenya, where the public's religious adherence is increasing with rising poverty and insecurity. My country's television and radio stations cover religion more frequently than before, even as Kenyans decry their radically increasing cost of living, ongoing unemployment, and rising physical insecurity. Kenya's official 50th anniversary celebrations, moreover... included more religious content than any of our previous Independence Day festivities."

<secularism.org.uk/blog/2014/08/dont-merge-human-rights-with-religion-even-in-africa>

Freedom of expression, advocacy of humanist values

Atheists in Kenya are vastly in the minority, both to the Christian majority and the smaller Muslim population, but non religious numbers are growing. Atheists do get occasionally receive representation on public platforms, such as the president of the group Atheists in Kenya appearing on national radio, though it is rare.

<freethinkers4kenya.wordpress.com/2014/10/23/the-president-of-atheists-in-kenya-shall-be-on-96-3-nation-fm/>

The Kenyan Information and Communications Amendment Bill in 2013 introduced strong controls on radio and television broadcasts. Human Rights Watch commented:

"These new laws are an attempt to undermine freedoms of expression and association in Kenya. Kenya's leaders should act swiftly to prevent these bills from becoming law and focus on the country's real challenges, like police reform and accountability."

— Daniel Bekele, Africa director

<hrw.org/news/2013/11/11/kenya-new-laws-would-undermine-basic-rights>

In 2014, there were concerns around escalating hate speech. Radio and television channels have been warned not to air anything that could escalate growing tribal violence. The campaign group Article 19 have expressed their concern over these laws, and other media groups have labeled them as “ruthless”, “draconian”, and are seen by some as a gag on the press.

[<globalnews.ca/news/1014854/kenya-passes-draconian-bill-limiting-press-freedom/>](http://globalnews.ca/news/1014854/kenya-passes-draconian-bill-limiting-press-freedom/)

In 2014 several journalists reported being harassed and receiving threats over their coverage of the ongoing International Criminal Court (ICC) case against three high-profile suspects—including President Uhuru Kenyatta and Ruto—accused of crimes against humanity in relation to the 2007-08 post election violence. In one case, a journalist felt compelled to flee the country after being routinely followed and monitored by unknown individuals.

[<freedomhouse.org/report/freedom-press/2014/kenya#.VE1dZPmsVjk>](http://freedomhouse.org/report/freedom-press/2014/kenya#.VE1dZPmsVjk)

LGBT Rights

Homosexuality is criminalised in Kenya under section 162 and 165 of the penal code - introduced during British rule more than 120 years ago. “Article 162 punishes “carnal knowledge against the order of nature” with up to 14 years in prison, while article 165 makes “indecent practices between males” liable to up to five years in prison.”

Although the laws have rarely been enforced - Human Rights Watch (HRW) reports 2 prosecutions under article 162 in the last 10 years - they “underpin a broad array of human rights abuses and contribute to a climate of discrimination and violence.”

[<hrw.org/news/2019/05/24/kenya-court-upholds-archaic-anti-homosexuality-laws-0>](http://hrw.org/news/2019/05/24/kenya-court-upholds-archaic-anti-homosexuality-laws-0)

Homophobia and transphobia is common: ““Openly gay or transgender people are vulnerable to physical violence, harassment and intimidation”. Denis Nzioka, of Gay Kenya, told ERT that he had received death threats because he was openly gay.”

[<equalrightstrust.org/ertdocumentbank/In_the_Spirit_of_Harambee.pdf>](http://equalrightstrust.org/ertdocumentbank/In_the_Spirit_of_Harambee.pdf)

Human Rights Watch reports that, in 2016, three Kenyan organizations that work to protect the rights of LGBT people filed a petition challenging articles 162 and 165, arguing that they violate the principles of equality, non-discrimination, human dignity, security, privacy, and health, all protected under the new Kenya’s constitution approved in 2010.

Addressing the petition, on 24th May 2019, Kenya’s High Court however decided to uphold the laws criminalising homosexual acts between consenting adults. This ruling contrasts several other court decisions in recent years that have instead upheld LGBT people’s fundamental rights. Activists said they would appeal the May 24 High Court ruling.

“Kenya has missed an opportunity to take a clear stance against discrimination,” said Njeri Gateru, director of the National Gay and Lesbian Human Rights Commission. “I believe justice will eventually prevail in Kenya, as in other parts of the world that have decriminalized same-sex conduct, but in the meantime, ordinary LGBT Kenyans will continue to pay the price for the state’s indifference to inequality.”

Human Rights Watch also reports that “Kenya’s government has adopted an ambivalent stance on LGBT rights. President Uhuru Kenyatta referred to homosexuality as “not acceptable” in a 2018 media interview, but has previously said he would not tolerate anti-LGBT “witch hunts” and other forms of violence. Kenya accepted a recommendation at the UN Human Rights Council in 2015 to adopt legislation prohibiting discrimination on the grounds of sexual orientation and gender identity, consistent with constitutional guarantees of non-discrimination, but no such legislation has been

passed.”

hrw.org/news/2019/05/24/kenya-court-upholds-archaic-anti-homosexuality-laws-0

In 2018, the Kenyan film classification board banned the lesbian movie ‘Rafiki’, on the grounds that it promotes homosexuality. “It is a sad moment and a great insult, not only to the film industry, but to all Kenyans who stand for morality, that a film that glorifies homosexuality is allowed to be the country’s branding tool abroad ... The board firmly believes films should reflect the dominant values of the Kenyan people. Homosexuality does not qualify as such,” the board said in a statement.”

ca.reuters.com/article/entertainmentNews/idCAKCN1M11HD-OCAEN

Following the ban, Kaiu, Rafiki’s director, said she would sue the Kenyan government and commented that she “wouldn’t feel so firm” about the ban “if our constitution didn’t allow us the right to freedom of expression in the very way that it is written”.

thedailybeast.com/rafiki-kenya-banned-her-film-for-its-corrupt-lesbian-romance-so-she-showed-it-off-to-the-world?ref=scrollZ

Highlighted cases

In 2016, the group **Atheists in Kenya** (an IHEU Member Organization) was initially denied formal registration as a recognised association on the grounds that “The Registrar has reasonable cause to believe that the interests of peace welfare [sic] or good order in Kenya would be likely to suffer prejudice by reason of your registration as a Society.” The group dismissed the assessment as a kind of “guesswork” and deemed the decision an act of “blatant discrimination”. AIK threatened to take the registrar to court to overturn the decision. The registration was then accepted, only to be suspended again by the Attorney-General, reportedly under pressure from religious groups. AiK again threatened legal action against the suspension.

iheu.org/atheists-in-kenya-must-be-officially-recognised/

nairobinews.nation.co.ke/news/ag-suspends-registration-atheists-society/

africareview.com/news/Atheists-in-Kenya-to-sue-over-suspended-registration/979180-3185334-format-xhtml-esj3f2/index.html

Testimonies

“I don’t know what my family has a harder time accepting, my atheism or my orientation. I came out as an atheist when I was 17 and when I told them I was gay later on, they concluded that I’m gay because I don’t believe in god.

It’s been really hard being a gay atheist because I’m an assertive person who doesn’t run away from debate. I’ve lost many friends and been blocked and deleted on Facebook. I’ve been betrayed by family (a relative complained to my father and demanded I be reprimanded for my orientation). I’ve been drugged and raped because I came out to someone I thought was my friend, but I felt like no one was going to believe me so I never spoke about it after it happened, I just never spoke to my attacker again. I’ve been ignored by family members who I used to be really close to because they know I’m a gay atheist.

... I’m still forced to go to church when my mother wants me to which is very uncomfortable because she truly believes that if she forces me to go to church, I’ll go back to being a “straight Christian”.

... My sexuality and religious views are not the problem, it’s the religious intolerance and homophobia that has the problem. Changing their perception of me is not easy because they’ve been brainwashed, so I stopped trying. ... The thing with homophobia and religious people is that they

hate what makes them feel uncomfortable and victimise whoever's different. But I'll never stop voicing my opinions because I am a person with rights and I hope to be respected more one day."

— Dorothy