



**PERMANENT MISSION OF
THE REPUBLIC OF KENYA**

TO THE UNITED NATIONS
AND OTHER INTERNATIONAL ORGANISATIONS
GENEVA – SWITZERLAND

REF. N° _____
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The Permanent Mission of the Republic of Kenya to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Special Procedures Branch of the Office of the High Commissioner for Human Rights (OHCHR) in Geneva and has the honour to refer to the latter's Joint Communication **REF AL KEN 3/2025** from Special Procedures sent by the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of right to freedom of opinion and expression and the Special Rapporteur on the rights of freedom of peaceful assembly and of association addressed to H.E. Mr. Musalia Mudavadi, EGH, Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs of the Republic of Kenya, regarding the allegations of violations against human rights defenders and civil society.

The Mission would like to forward herewith the response from H.E. Mr. Musalia Mudavadi, EGH, Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs of the Republic of Kenya concerning the aforementioned matters.

The Permanent Mission of the Republic of Kenya to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the High Commissioner for Human Rights (OHCHR) in Geneva, the assurances of its highest **consideration**.



GENEVA, 28 October 2025

**Special Procedures Branch
Office of the High Commissioner for Human Rights (OHCHR)
GENEVA**



———— EXECUTIVE OFFICE OF THE PRESIDENT ————
**OFFICE OF THE PRIME CABINET SECRETARY AND
MINISTRY OF FOREIGN AND DIASPORA AFFAIRS**

When replying please quote

MFDA/SDFA/UN/15/34/VOL.55

27th October, 2025

Ref. No.

Date.....

Her Excellency Mrs. Fancy Chepkemai Too
Ambassador Extraordinary and Plenipotentiary
Permanent Representative Permanent Mission of the
Republic of Kenya to the United Nations Office
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Your Excellencies,

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Matthew Gillett
Vice-Chair on communications of the Working Group on Arbitrary Detention

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

**SUBJECT: RESPONSE TO JOINT COMMUNICATION AL KEN 3/2025
DATED 5 AUGUST 2025**

Excellencies,

The Government of the Republic of Kenya acknowledges receipt of your joint communication Ref. AL KEN 3/2025 dated 5th August 2025 and appreciates the opportunity to respond. Kenya remains fully committed to its obligations under the **International Covenant on Civil and Political Rights (ICCPR)** (ratified 1 May 1972), the **African Charter on Human and Peoples' Rights** (ratified 27 June 1981), and the **Constitution of Kenya, 2010**, which is the supreme law of the land (Article 2(1)).

1. The matters raised in your communication are **currently under active investigation and adjudication by independent constitutional bodies** as provided for under Kenya's legal framework. To preserve the independence of these institutions and avoid prejudicing ongoing judicial and quasi-judicial processes, the Government is constrained from providing detailed commentary on specific cases.
2. Nonetheless, Kenya takes the concerns raised in your Joint Communication seriously, both as a **member of the UN Human Rights Council** and as a stable democracy that upholds freedoms of speech, press, fair trial, and peaceful assembly, including demonstration, picketing, and petitioning.
3. In 2010, Kenya adopted a progressive Constitution with a robust **Bill of Rights (Chapter 4, Part 2)**, providing one of the world's most comprehensive frameworks for protecting and promoting human rights, including the right to life and personal security.
4. The Government of Kenya has made significant strides in expanding, promoting, and protecting civil society space to strengthen human rights, open governance, and democracy. With **over 14,000 registered CSOs**, Kenya affirms that an inclusive, participatory, and open society is vital for national progress.

5. To create an enabling environment for CSOs, Kenya enacted the **Public Benefit Organizations (PBO) Act**, effective May 14, 2024, which expedites registration, removes administrative arbitrariness, and grants tax and other benefits to registered PBOs.

Response to the Five Questions

1. Additional information and/or comments on the allegations.

The Government notes the allegations and underscores that the Independent Policing Oversight Authority (IPOA), Office of the Director of Public Prosecution, the Judiciary and other institutions have endeavoured to effectively address cases of excesses by law enforcement officers. All incidents referenced are subject to independent review by:

- **The Judiciary** (Articles 159–160, Constitution)
- **The Office of the Director of Public Prosecutions (ODPP)** (Article 157)
- **The Independent Policing Oversight Authority (IPOA)** (Section 6, IPOA Act, 2011)
- **The National Police Service (NPS)** under its internal disciplinary mechanisms (NPS Act, Sixth Schedule)

2. Factual and legal grounds for arrests, detention, prosecution, and deportation

- **Mr. Mark Amiani, Mr. John Mulingwa Nzau, and Mr. Francis Mutunge Mwangi**: Charged in **Milimani Chief Magistrate’s Court, Criminal Case [REDACTED]** with **incitement to violence contrary to Section 96 of the Penal Code and malicious damage to property (Section 339)**. Released on bail 2 July 2025. Judicial proceedings are ongoing.

- **Mr. Boniface Mwangi:** Charged in **Kahawa Law Courts, Criminal Case [REDACTED]** with **unlawful possession of ammunition (Firearms Act, Cap 114)**. Released on bail 21 June 2025. Judicial proceedings are ongoing.
- **Mr. Martin Mavunjina:** Deportation executed under **Section 43 (2)(a) of the Kenya Citizenship and Immigration Act, 2011** on grounds of national security. The decision is under appeal before the **Immigration Appeals Tribunal [REDACTED]**

All actions were taken in accordance with due process. The individuals were promptly produced before courts within **24 hours** as required by **Article 49(1)(f)(g)(h) of the Constitution**.

3. **Measures to terminate targeting of Human Rights Defenders (HRDs) and restrictions on media/protests**

- **Freedom of expression:** Guaranteed under **Article 33**. The Communications Authority directive of 25 June 2025 was **suspended by the High Court (Petition No. E012/2025)** on the same day. Judicial proceedings are ongoing.
- **Freedom of assembly:** Protected under **Article 37**. The **Public Order Act (Cap 56)** requires **notification**, not approval. Police are mandated to **facilitate**, not prohibit, peaceful assemblies (Section 5).
- **Use of force:** Governed by **NPS Standing Orders (Sixth Schedule)** and the **NPS Use of Force Policy (2020)**, which mandate **non-violent means first** and **proportionality**. IPOA is investigating the 25 June 2025 deaths (Ref: **IPOA/INV/2025/067**).

4. **Investigations into 2024/2025 protests and KHRC incident**

- **2024 protests:** Under review by IPOA (Consolidated File **IPOA/INV/2024/089**).

- **25 June 2025 protests:** 16 deaths reported; **IPOA opened inquests** into all fatalities.
- **KHRC press conference (6 July 2025):** Reported to **Central Police Station, Nairobi (OB No. 45/06/07/2025)**. Investigations ongoing.

Victims and families of alleged violations have access to **remedy** as provided under Article 48 of the Constitution and also through:

- Civil suits (Article 23 of the Constitution)
- Public interest litigation (Article 22 of the Constitution)
- The **National Coroner Service Act, 2017**

Additionally, as a demonstration of good faith, **His Excellency President William Ruto** established a 14 (Fourteen) member Panel of Experts on Compensation of Victims of Demonstrations and Public Protests on 25th August, 2025, to propose reparation measures for victims. The constitutionality of the Panel is presently challenged before courts.

5. Legal provisions for peaceful protests and use of force

Right	Legal Basis	Key Provisions
Peaceful assembly	Article 37, Constitution	"Every person has the right, peaceably and unarmed, to assemble, to demonstrate..."
Notification	Section 5, Public Order Act	3-day notice; police must facilitate
Use of force	Sixth Schedule, NPS Act	"Non-violent means first; force only when necessary and proportionate"
Accountability	IPOA Act, 2011	Independent civilian oversight; mandatory investigations into deaths
Judicial review	Article 165(6)	High Court oversight of police conduct

Closing

The Government of Kenya reaffirms its commitment to **constitutional democracy, rule of law, and international human rights obligations**. We regret the absence of a response to **UA KEN 4/2024** and assure you that this oversight will not recur.

Please accept, Excellencies, the assurances of our highest consideration.



H.E. Dr. Musalia Mudavadi, EGH
PRIME CABINET SECRETARY AND
CABINET SECRETARY FOR FOREIGN AND DIASPORA AFFAIRS