



Universal Periodic Review 49th session – Stakeholders' Report

KENYA: Freedom of Religion, Right to Life and a Healthy Environment

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Joint submission by:

The World Evangelical Alliance (WEA)

The Evangelical Alliance of Kenya (EAK)

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I. Introduction

- 1) The World Evangelical Alliance (WEA) was founded in 1846 and is a network of churches in over 140 nations that have each formed an evangelical alliance, and over 100 international organisations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide.
- 2) Established in 1975, the Evangelical Alliance of Kenya (EAK) stands as the national umbrella organization for evangelical churches in Kenya, boasting a membership of over 900 denominations and organisations with more than 10 million evangelicals. EAK is a member of the World Evangelical Alliance (WEA) and the Association of Evangelicals in Africa (AEA). The Alliance has a presence in 46 counties and focuses on defending freedom of conscience and freedom of religion or belief, promoting Evangelical Unity and offering biblical answers to contemporary societal issues.
- 3) This submission explains why Kenya must safeguard freedom of religion and the right to life and a healthy environment.

III. Freedom of religion

- 4) Freedom of religion or belief is well articulated as a human right in international law. It is guaranteed in Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights.
- 5) Freedom of religion is guaranteed under Article 32 of the Constitution of Kenya 2010.¹ It is clearly stipulated that “every person has the right, either individually or in community with others, in public or in private, to manifest any religion or belief through worship, practice, teaching or observance, including observance of a day of worship.” As such, the religious organizations bill in its current form poses a serious threat to religious freedom.
- 6) On 11 September 2024, Sen Danson B. Mungatana tabled The Religious Organizations Bill, 2024 before the Senate of Kenya. The Bill sought to provide for a legislative framework for the regulation and the registration of religious organizations and umbrella religious organizations; and for connected purposes.
- 7) The move to table the Bill took religious leaders and organizations by surprise, particularly coming after the finalization of the Work of the Presidential Taskforce on the Review of the Legal and Regulatory Framework Governing Religious Organizations in Kenya. The religious community supported and participated in the work of the Taskforce that was put in place after the unfortunate Shakahola incident.
- 8) There was a very tragic incident at Shakahola where over 400 people died from their involvement with a rogue religious community. In March 2023, mass graves were discovered in Shakahola containing hundreds of bodies. 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. There are laws that address the criminal behaviour of the leaders of this organisation. The EAK called on the government to arrest the cult leaders.

9) In response, the President initiated the Taskforce in May 2023 to recommend a regulatory framework. The presidential task force premised its proposals for a change in the law on the claim of rising “extremism behaviour and sprouting of otherwise non-anchored religious sects with uncensored teachings to thrive”² because of the absence of a religious self-regulatory mechanism. It contended that the absence of a regulatory framework enabled incidents like Shakahola to occur.

10) We note that religious organizations have played a critical role in shaping Kenya's social and economic landscape. They complement the work of the government in peacebuilding and providing services in the health, education and hospitality sectors. They also provide employment and have significantly contributed to building a better country. While some rogue individuals have misused religious platforms leading to abuse of their flock owing to religious extremism, most religious institutions have played a vital role in society.

11) We note the following concerns with this Bill:

- i. The Mungatana Bill contravenes fundamental constitutional principles enshrined in Article 10, specifically the provision on public participation. Key stakeholders, including religious leaders, were not involved in the development of the Bill.
- ii. The Bill unjustly limits religious activities, including evangelism and constrains religious leaders from engaging fully in their own institutions. Moreover, it duplicates existing regulations, such as requirements for audited accounts.
- iii. The Bill fails to appreciate the importance of the critical qualification for the proposed Registrar, particularly in religious or theological qualifications as a prerequisite.
- iv. The Bill places unreasonable demands on the Registrar, including an annual visiting requirement for all registered religious institutions.
- v. By imposing both national and county regulations, the Bill creates an unconstitutional “double jeopardy” for religious institutions.
- vi. Despite the growing issue of online violations of religious freedom, the Bill ignores this critical challenge.
- vii. The Bill overlooks provisions in other laws, such as the Children's Act and the Penal Code, which already govern relevant offences.
- viii. The proposed penalties for violations under the Bill are too punitive and exorbitant. The Bill fails to recognize the current economic state and may be used by rogue officials to solicit bribes.

12) We agree that the state can and should develop regulations that provide for self-regulation for administrative structures for religious institutions but believe that this Bill goes too far and allows the government to interfere in religion and potentially infringe religious freedom.

III. The right to life and a healthy environment

- 13) Article 6 of the International Covenant on Civil and Political Rights guarantees the right to life and requires states to protect this in law.
- 14) Former UN High Commissioner for Human Rights, Michelle Bachelet, strongly urged states to recognize the impact of climate change and environmental degradation on vulnerable populations. She further urged states to adopt mitigation strategies.³
- 15) Section 3(3) of the Environmental Management and Coordination Act 1999,⁴ gives any party who alleges that his right to a clean and healthy environment has been or is likely to be violated to apply to the Environment and Land court for redress.
- 16) In September 2023, the African Union chose Kenya to host the Africa Climate Week and the Africa Climate Summit, culminating in the Nairobi Declaration,⁵ 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.
- 17) Climate-related disasters such as the 2022–2023 prolonged drought and the recent deadly floods in 2024 have created an economic liability of approximately 2 to 2.8 percent of its gross domestic product (GDP) annually. This is in addition to several other vulnerabilities, such as the economic fallout from the COVID-19 pandemic, frequent locust invasions, and other crop pests and diseases.
- 18) According to a June 18, 2024 report by the Kenya Red Cross, the staggering toll from this disaster includes 294 fatalities, 162 missing persons, 101,132 affected households, 151 school disruptions, 45 affected healthcare facilities and 65,377 acres of decimated farmland.⁶ The start of the school year's second term had to be postponed by two weeks and infrastructure, such as roads, railways and bridges was also severely impacted. Some of the highest impacts from the floods were felt by people living in informal settlements. In Nairobi, the country's capital city, over 40,000 households living in informal settlements were displaced.
- 19) The drought in northern Kenya persisted for the fourth year, putting 5 million people including refugees at risk of acute food insecurity. 7 million children were at risk of malnourishment.⁷ 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.
- 20) There were queries raised by some of the flood victims on the fairness in the compensation that the government provided. Religious organisations like other humanitarian organisations complemented government effort though not every need was fully met.

IV. Recommendations

21) In light of the foregoing, we suggest the following recommendations be made to the government of Kenya:

- a) Withdraw the Religious Organizations Bill 2024 until the issues relating to freedom of religion are addressed.
- b) Strengthen Disaster management institutions and partnerships, and mainstream disaster reduction in the development processes to strengthen the resilience of vulnerable groups to cope with potential disasters like drought and floods.
- c) Continue to provide support to the Kenya National Commission on Human Rights.

- ¹ Constitution of Kenya, 2010, s. 32. Available online: <https://www.klrc.go.ke/index.php/constitution-of-kenya/112-chapter-four-the-bill-of-rights/part-2-rights-and-fundamental-freedoms/198-32-freedom-of-conscience-religion-belief-and-opinion>.
- ² Francis Omondi, "Incarcerating Kenya's religious liberties," *The Elephant*, 25 September 2024. Available online: <https://www.theelephant.info/analysis/2024/09/25/incarcerating-kenyas-religious-liberties/>.
- ³ Michelle Bachelet, "Statement by UN High Commissioner for Human Rights Michelle Bachelet on the COP-26 meeting," 28 October 2021. Available online: <https://www.ohchr.org/en/2021/10/statement-un-high-commissioner-human-rights-michelle-bachelet-cop-26-meeting>.
- ⁴No. 8 of 1999. Available online: https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/EnvironmentalManagementandCoordinationAct_No8of1999.pdf.
- ⁵African Union, "Nairobi Declaration," September 8, 2023. Available online: <https://media.africaclimatesummit.org/Final+declaration+1709-English.pdf?request-content-type=%22application/force-download>.
- ⁶ Kenya Red Cross, "Floods Update," June 18, 2024. Available online: <https://www.redcross.or.ke/wp-content/uploads/2024/06/MAM-SitRep-18th-June-2024.pdf>
- ⁷ United Nations Office for Coordination of Humanitarian Affairs, "Kenya Drought Response Dashboard (January to December 2023)." Available online: [https://www.unocha.org/publications/report/kenya/kenya-drought-response-dashboard-january-december-2023#:~:text=Despite%20increased%20rainfall%20in%20the,Warning%20System%20Network%20\(FEWSNET\)](https://www.unocha.org/publications/report/kenya/kenya-drought-response-dashboard-january-december-2023#:~:text=Despite%20increased%20rainfall%20in%20the,Warning%20System%20Network%20(FEWSNET)).