

KENYA 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Kenya is a republic with three branches of government: an executive branch, led by a directly elected president; a bicameral Parliament consisting of the Senate and the National Assembly; and a judiciary. The country continued to transfer significant elements of fiscal and administrative authority from the central government to 47 county governments created in 2013 in accordance with the 2010 constitution. The constitution also established an independent judiciary and a supreme court. In the 2013 general elections, the first under the new constitution, citizens elected a president and deputy president, parliamentarians (including members of the new Senate), and county governors and legislators. International and domestic observers judged the elections generally free and credible, although some civil society groups pointed to irregularities and questioned the results. In a closely contested election, Jubilee Coalition candidate Uhuru Kenyatta won the presidency. The Supreme Court unanimously upheld the election results. Since that time, authorities have held several free and credible by-elections. Civilian authorities at times did not maintain effective control over the security forces.

The most serious human rights problems were security force abuses, including alleged unlawful killings, forced disappearances, torture, and use of excessive force; interethnic violence; and widespread corruption and impunity.

Other human rights problems included: harsh and life-threatening prison conditions; arbitrary arrest and detention; prolonged pretrial detention; arbitrary interference with the home and infringement on citizens' privacy; restrictions on press freedom and freedom of assembly; abuse and forced resettlement of internally displaced persons (IDPs); abuse of refugees; violence and discrimination against women; violence against children, including female genital mutilation/cutting (FGM/C); early and forced marriage; child prostitution; trafficking in persons; discrimination against persons with disabilities and albinism; discrimination based on ethnicity, sexual orientation, and HIV/AIDS status; violence against persons with HIV/AIDS; mob violence; lack of enforcement of workers' rights; forced and bonded labor, including of children; and child labor.

The governmental Independent Policing Oversight Authority (IPOA), established to provide civilian oversight over the work of police, investigated numerous cases of misconduct. Widespread impunity at all levels of government continued to be a

serious problem, despite public statements by the president and deputy president and police and judicial reforms. The government took only limited steps to address cases of alleged unlawful killings by security force members, although IPOA continued to increase its capacity and referred cases of police misconduct to the Office of the Director of Public Prosecution (ODPP) for prosecution. Impunity in cases of alleged corruption was also common, although President Kenyatta announced an anticorruption campaign in March and the inspector general of police took a strong public stance against corruption and promoted lawful behavior among police officers.

Al-Shabaab terrorists conducted deadly attacks in Garissa and Mandera Counties and guerilla-style raids on isolated communities along the coast and the border with Somalia. Security forces conducted a number of security operations, including an operation by Kenya Defense Forces and police units launched in September to drive al-Shabaab militants out of the Boni Forest region in northern Lamu and southern Garissa Counties. According to *The Daily Nation* newspaper, authorities arrested and charged five suspects in connection with the April 2 al-Shabaab attack on Garissa University College, which resulted in the deaths of at least 147 individuals.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were numerous allegations the government or its agents committed arbitrary and unlawful killings, particularly of known or suspected criminals, including terrorists. On October 5, the nongovernmental organization (NGO) Independent Medico Legal Unit reported 97 cases of extrajudicial killings between January and September. NGO research suggested that police were responsible for the majority of deaths by gun violence. Some groups alleged that authorities significantly underestimated the number of extrajudicial killings due to underreporting of security force killings in informal settlements, including those in dense urban areas. From January to June, IPOA received 27 complaints regarding deaths resulting from police actions and referred nine to the ODPP, based on conclusive investigations. Authorities were trying the nine cases at year's end.

Several organizations documented alleged extrajudicial killings or disappearances committed by security force members. In September a draft of a preliminary report by the Kenya National Commission on Human Rights (KNCHR), a government-supported body, was leaked to the press. The report described human

rights abuses allegedly committed by security forces in the crackdown against terrorism. According to the report, more than 120 cases of human rights violations, including 25 extrajudicial killings and 81 enforced disappearances occurred, and these types of violations were “widespread, systematic, and well-coordinated.” In many cases the report attributed the human rights abuses to the Kenya Defense Forces. The report contained allegations of torture, with details suggesting that at least five of the deaths resulted from torture.

In July 2014 the National Assembly adopted amendments to the National Police Service Act permitting the use of “justifiable” force to protect “life and property.” The measures allow police officers to shoot a felony suspect who attempts escape as well as alleged accomplices. International observers and human rights activists asserted that protecting property with lethal force was unconstitutional and contrary to international human rights law standards.

There were numerous reported abuses similar to the following example. In June authorities arrested two police officers assigned to Kabete Police Station in Nairobi and charged them with murder in connection with the October 2014 deaths of an Administration Police Service officer, Joseph Obongo, and his two relatives, Geoffrey Nyabuto and Amos Okenye. The arrests were the result of IPOA’s investigation into the deaths and its subsequent recommendation to the ODPP to charge the two police officers with murder. The case was pending trial at year’s end.

Impunity remained a serious problem (see section 1.d.).

b. Disappearance

Observers and NGOs suspected members of the security forces of a number of forced disappearances. In a press conference on August 14, the NGO Muslims for Human Rights (MUHURI) stated that the number of cases of missing persons had been on the rise in the previous two years and that it received more than 30 reports of persons who disappeared near the country’s coastal region during the year. Family members of alleged victims spoke about their frustration over not receiving any information from police. The Council of Imams and Preachers of Kenya called on the government either to notify families if authorities were holding their relatives or to investigate the disappearances if the government was not responsible.

The preliminary KNCHR report released in September documented 81 suspected

cases of enforced disappearances.

Several members of parliament representing northeastern and coastal constituencies noted their constituents reported cases of disappearances.

There were also separate media reports of families on the coast and in northeastern counties searching for relatives who disappeared following arrest and of authorities holding individuals incommunicado for interrogation for several weeks or longer (see section 1.d.). On August 31, U.S.-based National Public Radio reported that its journalists had seen closed-circuit camera footage of the April detention by plainclothes security officers of a shop owner in Garissa named Hamza Mohammed Bare. Bare's relatives claimed they had not received any information on his whereabouts since his disappearance.

In March 2014 a number of NGOs started legal action on behalf of the family of Hemed Salim, who disappeared after his February 2014 arrest during a police raid on Mombasa's Masjid Musa mosque. The court directed authorities to hold an inquiry, and the Kenya Police Criminal Investigation Department undertook the inquiry in the early part of the year. Authorities had not released the results of the inquiry as of November.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

While the constitution and law prohibit torture, the legal code does not define torture and provides no sentencing guidelines for violating the constitutional and legal prohibitions. These gaps functionally prevent prosecution for torture. Police reportedly used torture and violence frequently during interrogations as well as to punish both pretrial detainees and convicted prisoners. According to Amnesty International and other NGOs, physical battery, being tied up in painful positions, and suspension from the ceiling were the most common methods of torture used by police. A range of human rights organizations and the media reported cases of torture and indiscriminate police beatings committed with impunity. The draft KNCHR report leaked to the press in September included accounts of use of torture by security forces, especially following the April 2 terrorist attack on Garissa University College (see section 1.a.). The accounts included allegations of torture through beatings, waterboarding, genital mutilation, electric shocks, exposure to extreme cold or heat, hanging from trees, mock executions, exposure to stinging ants, and denial of sleep and food.

Amnesty International documented 41 cases of alleged police torture in 2014; in May 2014 it released a survey indicating that 58 percent of citizens feared being tortured.

There were reports security forces deployed to quell ethnic violence committed abuses (see section 6).

Prison and Detention Center Conditions

Prison and detention center conditions were harsh and life threatening due to overcrowding, food and water shortages, and inadequate sanitary conditions and medical care. Pretrial detention in police stations similarly continued to be harsh and life threatening. According to a December 2014 media report, prisons did not have facilities to accommodate persons with disabilities. Approximately 50 prisoners with disabilities resided at Nairobi's Naivasha G.K. Prison, the country's largest prison.

Physical Conditions: The National Prison Administration reported a prison population of 54,154 as of April. Approximately 40 percent of the inmates were in pretrial detention. More than 90 percent of the prison population was male. The country's 108 prisons had a designated capacity of 26,757 inmates; serious overcrowding was the norm. Authorities released 5,596 prisoners between September 2014 and February as part of a "decongestion" program.

Government statistics on the number of inmates who died in prison were not available. Overcrowding, unhygienic conditions, and inadequate medical treatment contributed to prisoner deaths. According to *The Daily Nation* of May 17, the National Assembly's Administration and National Security Committee reported that overcrowding was rife at prison facilities and that inmates were exposed to disease due to poor sanitation. The newspaper's May 20 edition reported that at least two inmates died and 30 others hospitalized following a May outbreak of cholera at a prison in Mombasa.

Between January and June, IPOA observed that authorities separated women from men in detention facilities 81 percent of the time in the 16 detention facilities its representatives visited. In smaller jails, female prisoners were not always separated from men. There were no separate facilities during pretrial detention, and sexual abuse of female prisoners was a problem. Conditions for female inmates in small, particularly rural, facilities were worse than for men. Human rights groups reported that police routinely solicited sex from female prisoners and

that many female inmates resorted to prostitution to obtain necessities, such as sanitary items and underwear, which the Department of Prisons did not provide.

Prison authorities generally separated minors from adults except during the initial detention period at police stations, when authorities often held adults and minors of both sexes in a single cell. Between January and June, IPOA observed that only 13 percent of the detention facilities visited included separate housing for juveniles. Minors often mixed with the general prison population during lunch and exercise periods, according to the Coalition for Constitutional Interpretation (CCI), a domestic NGO. Prison officials reported that because there were few detention facilities for minors, authorities often had to transport them very long distances to serve their sentences, spending nights at police stations under varying conditions along the way.

According to data released by the Department of Prisons in April, 312 children under age four lived with their mothers in prisons. At age four, authorities either transferred them to the custody of a relative or sent them to a children's home until their mother's release.

Prisoners generally received three meals a day, but portions were inadequate and sometimes cut in half as punishment. Water shortages, a problem both inside and outside of prison, continued. Sanitary facilities were inadequate. The CCI reported that inmates were often unable to access water for washing. Medical care was poor, particularly for those with tuberculosis or HIV/AIDS, and insufficient food lessened the effectiveness of available medicine. Prison hospitals could not meet the needs of prisoners. Many inmates petitioned the courts for transfer to outside hospitals, but administrative problems, such as lack of transportation, often delayed court-ordered hospital attention. Prisoners generally spent most of their time indoors in inadequately lit and poorly ventilated cellblocks. This was especially true for the more than one-third of inmates awaiting trial, as they were not engaged in any work programs that would allow them to leave their cells regularly.

According to the Commission on Administration of Justice, authorities often subjected prisoners to forced labor and failed to compensate them for work (see section 7.b.).

Administration: Recordkeeping on prisoners remained inadequate despite the enactment and entry into force in December 2014 of the Security Laws Amendment Act (SLAA). The act requires improved record keeping at prisons

and jails. The Department of Prisons took steps to improve recordkeeping, including engaging with prison reform NGOs and IPOA, and to conduct training and improve practices.

Inadequate mechanisms for prisoners to report abuse and other concerns remained a problem. By law, the Commission on the Administration of Justice serves as ombudsman on government administration of prisons. It is to receive and treat as confidential correspondence from inmates and recommend remedies to their concerns, including those pertaining to prison living conditions and administration. Government-established special committees, which included paralegals and prison officials, also served to increase prisoners' access to the judicial system. The Legal Aid Center of Eldoret has noted there was no single system providing "primary justice" to prisoners and detainees, who instead relied on a patchwork of services largely provided by NGOs. Many government-designated human rights officers lacked necessary training, and some prisons did not have a human rights officer. Authorities expected human rights officers to continue their existing full-time prison work in addition to carrying out human rights responsibilities. In Nairobi, prison officials initiated a training program for newly designated human rights officers and provided printed materials on prisoner rights in several prisons.

Noncustodial community service programs served to alleviate prison overcrowding. The total prison population did not decrease, however, because most inmates were petty offenders whose pretrial detention frequently exceeded the punishment prescribed for their crimes. There were no other known alternatives to incarceration for nonviolent offenders. Legal rights NGOs and prison officials reported overuse of the charge of "robbery with violence," which may carry a life sentence, without sufficient evidence to support it. Some petty offenders consequently received disproportionately heavy sentences.

Prison officials sometimes denied prisoners and detainees the right to contact relatives or lawyers. Family members who wanted to visit prisoners commonly reported bureaucratic obstacles that generally required a bribe to resolve. According to the Legal Resources Foundation, prisoners had reasonable access to legal counsel and other official visitors, although there was insufficient space in many prisons and jails to meet with visitors in private and conduct confidential conversations.

Independent Monitoring: The government permitted prison visits by local human rights groups and international diplomatic representatives.

Improvements: Authorities refurbished some mental health facilities during the year, provided bedding, and improved meals for inmates. Prison officials acquired livestock and developed farming facilities at some juvenile detention centers.

d. Arbitrary Arrest or Detention

The law prohibits arrest or detention without a court order unless there are reasonable grounds for believing a suspect has committed or is about to commit a criminal offense. Police, however, frequently arrested and detained citizens arbitrarily or accused them of more severe crimes than they had committed.

Role of the Police and Security Apparatus

The National Police Service maintains internal security and is subordinate to the Ministry of Interior and Coordination of National Government (Interior). New security sector leadership took office during the year, with Joseph Nkaisery becoming the cabinet secretary for interior and Joseph Boinett appointed as inspector general of police.

The National Police Service includes the Kenya Police Service and the Administration Police Service. The Kenya Police Service is responsible for general policing and maintains specialized subunits, such as the paramilitary General Services Unit, which is responsible for responding to significant and large-scale incidents of insecurity and guarding high-security facilities. The Administration Police Service's mandate is border security, but it has begun to assume more traditional policing duties. The Directorate of Criminal Investigation is an autonomous department responsible for all criminal investigations and includes specialized investigative units, such as the Antinarcotics Unit, the Antiterrorism Police Unit, and the Forensics Unit.

The National Intelligence Service collects intelligence internally as well as externally and is under the direct authority of the president.

The Kenya Defense Forces are responsible for external security but have some domestic security responsibilities, including border security and supporting civilian organizations in the maintenance of order, as allowed by the constitution. The defense forces are subordinate to the Ministry of Defense. In September the defense forces and police launched a coordinated operation to drive al-Shabaab terrorists out of the Boni Forest in northern Lamu and southern Garissa counties.

The National Police Service Commission (NPSC) and IPOA, both government bodies, report to the National Assembly. The NPSC consists of six civilian commissioners, including two retired police officers, as well as the inspector general's two deputies. The NPSC is responsible for recruiting, transferring, vetting, promoting, and removing police officers in the National Police Service. IPOA investigates serious police misconduct, especially cases of death and grave injury at the hands of police.

Impunity was a major problem. Authorities sometimes attributed the failure to investigate a case of police corruption or unlawful killing to the failure of victims to file official complaints. Victims could file complaints at regional police stations, police headquarters through the Internal Affairs Unit (IAU), and through the IPOA website and hotline. NGOs documented threats against police officers who attempted to investigate criminal allegations against other police officers.

Police corruption remained a significant problem. The NPSC oversaw a national police recruitment exercise in 2014 that was marred by widespread allegations of bribery, ethnic favoritism, and political influence. In August 2014 IPOA sued to annul the entire recruitment exercise, alleging that it was fundamentally flawed. In October 2014 the High Court annulled the recruitment. Following the April 2 terrorist attack at Garissa University College, the president issued a directive that all police constables recruited during the annulled exercise report immediately to police training colleges despite the court order to the contrary. After negotiations between IPOA and government officials, the president withdrew his directive and ordered a new recruitment exercise. As of November, authorities had recruited 10,000 new police officers.

Police often stopped and arrested citizens to extort bribes; they jailed on trumped-up charges those who could not pay and sometimes beat them. Refugees and ethnic Somalis were especially frequent targets of police extortion (see section 2.d.). Transparency International's 2014 *Global Corruption Perceptions Index* indicated the public viewed police and the judiciary as among the most corrupt institutions in the country (see section 4). The study concluded that police were extremely corrupt, noting that more than 70 percent of respondents reported police forcing them to pay a bribe during the prior 12 months. The media and civil society groups reported that police used illegal confinement, extortion, physical abuse, and fabricated charges to accomplish law enforcement objectives as well as to facilitate illegal activities. Police regularly demanded motorists pay bribes to avoid fines or the inconvenience of proceeding to a police station. Police also accepted bribes to fabricate charges against individuals as a means of settling

personal vendettas.

Police failed to prevent vigilante violence in numerous instances but in other cases played a protective role (see section 6, Other Societal Violence or Discrimination).

Poor casework, police incompetence, and corruption undermined successful prosecutions; the overall conviction rate for criminal prosecutions was between 13 and 16 percent. According to the NGO Usalama Reform Forum, less than 40 percent of crime victims made a report to police due to lack of confidence in police and the criminal justice system, lack of support for witnesses and victims, and fear of retribution. The same NGO noted that the National Police Service at all levels lacked a coherent framework for understanding or responding to crime, lacked a model for coordination, and possessed limited capacity for data analysis. Police also frequently failed to enter detainees into police custody records, making it difficult to locate them. Dispute resolution at police stations resolved a significant number of crimes, but authorities did not report or record them, according to human rights organizations.

Witness harassment and fear of retaliation severely inhibited the investigation and prosecution of major crimes. The Witness Protection Agency was underfunded, doubts about its independence were common (see section 4), and the Supreme Court cited its weaknesses as a serious judicial shortcoming. The agency's capacity, however, increased during the year, and it cooperated closely with IPOA and other investigative bodies.

Human rights activists reported that at times police officers in charge of taking complaints at the local level were the same ones who committed abuses. Police officials resisted investigations and jailed some human rights activists for going to a police station to make a complaint. In one case authorities in 2014 charged the chief of the Pangani Police Station in Nairobi, Boniface Kavoo, with withholding physical evidence relevant to the IPOA's investigation into the 2013 police shooting death of a woman in the Mathare neighborhood of Nairobi (see section 1.a.). The investigation continued following receipt of new information during the year.

Research by a leading legal advocacy and human rights NGO found police frequently used disciplinary transfers of officers to hide their identities and frustrate investigations into their alleged crimes. Many media and civil society investigations into police abuse ended after authorities transferred officers and police failed to provide any information about their identities or new whereabouts.

During the year police accountability mechanisms, including those of IPOA and the IAU, increased their capacity to investigate cases of police abuse. The IAU acting director reported directly to the inspector general of police. Thirty-five officers served in the unit, mostly investigators with a background in the Kenya Police Service and the Administration Police Service. The IAU handles allegations of bribery, harassment, and indiscipline.

Between January and June, IPOA received nine reports of deaths caused by the actions of police officers from the National Police Service, which is legally required to report all deaths to IPOA. IPOA repeatedly expressed its concern about the lack of police compliance with this legal requirement. Since its inception in 2012, IPOA has received 235 such reports.

The ODPP is empowered to direct the inspector general to investigate any information or allegation of criminal conduct and to institute criminal proceedings in police abuse or corruption cases.

Between January and June, IPOA received 867 complaints, bringing the total since its inception to 3,246. In the same six-month period, IPOA completed 59 complaints, 27 of which were death cases. In the previous three years, IPOA completed 141 cases and referred 21 to the ODPP for prosecution. Of those 21 cases, nine cases were before the courts, which had not reached a verdict in any.

The NPSC continued transitional vetting of all serving police officers. Vetting required an assessment of each officer's fitness to serve based on a review of documentation, including financial records, certificates of good conduct, and a questionnaire, as well as consideration of public input regarding allegations of abuse or misconduct. By September the NPSC had vetted 1,564 officers, of whom 1,364 were vetted during the year. On October 15, the NPSC announced that it had discharged 63 vetted mid-level and senior officers. This action was in addition to the eight officers separated in earlier rounds of vetting and the 15 who decided to retire early in lieu of vetting. The entire police IAU completed vetting in August. Some legal challenges brought by officers vetted out of the service continued in court.

Arrest Procedures and Treatment of Detainees

The law provides police with broad powers of arrest. Police officers may make arrests without a warrant if they suspect a crime occurred, is happening, or is

imminent. Victims' rights NGOs reported that in some cases authorities required victims to pay bribes and to provide transportation for police to a suspect's location to execute a legal arrest warrant.

The constitution's bill of rights provides significant legal protections, including provisions for persons to be charged, tried, or released within a certain period of time and for issuing a writ of habeas corpus to allow a court to determine the lawfulness of detention. In many cases, however, authorities did not follow the prescribed time limits. According to the attorney general in a response to a questionnaire from the Office of the UN High Commissioner for Human Rights in 2013, "an unexplained violation of a constitutional right will normally result in an acquittal." While authorities in many cases released the accused if held longer than the prescribed period, some cases did not result in an acquittal, and authorities provided no compensation.

Police frequently used excessive force when making arrests. For example, in a case reported by every major domestic newspaper in August 2014, police officers in Kwale shot and killed a 14-year-old girl while searching for a suspect in her residence. Police claimed she confronted them with a machete. According to press reports, an eyewitness, who subsequently went into hiding, claimed police shot her without provocation. The director of public prosecutions demanded an inquiry; the case remained in court at year's end.

The constitution establishes the right of suspects to bail unless there are compelling reasons against release. There is a functioning bail system, and all suspects, including those accused of capital offenses, are eligible for bail. Many suspects remained in jail for months pending trial because of their inability to post bail. Due to overcrowding in prisons, courts rarely denied bail to individuals who could pay it, even when the circumstances warranted denial. For example, NGOs that worked with victims of sexual assault complained that authorities granted bail to suspects even in cases in which there was evidence that they posed a continuing threat to victims.

Although the law provides pretrial detainees with the right to access family members and attorneys, family members of detainees frequently complained that authorities permitted access only upon payment of bribes. When detainees could afford counsel, police generally permitted access to attorneys.

Arbitrary Arrest: Police frequently arrested and detained persons arbitrarily. Victims of arbitrary arrest were generally poor young men. Human rights

organizations complained that security forces engaged in widespread arbitrary arrests and detentions during counterterrorism operations and targeted ethnic Somalis and Kenyan Muslims (see sections 1.a.).

Pretrial Detention: Lengthy pretrial detention was a serious problem and contributed to prison overcrowding. Some defendants were held in pretrial detention longer than the statutory term of imprisonment for the crime with which they were charged. The government claimed the average time spent in pretrial detention was 14 days, but there were reports many detainees spent two to three years in prison before their trials were completed--sometimes exceeding the maximum sentence for the alleged crime. Police from the arresting locale are responsible for bringing detainees from prison to court when hearings are scheduled but often failed to do so, forcing detainees to wait for the next hearing of their cases (see section 1.e.).

Amnesty: The president pardoned petty offenders periodically. In December the president pardoned 66 prisoners as part of Independence Day celebrations.

The Advisory Committee on the Power of Mercy, a governmental body chaired by the attorney general, interviewed inmates and made recommendations for presidential pardons. Human rights groups noted, however, that the committee lacked capacity and was ineffective. The committee supported calls for authorities to abolish life sentences and to allow alternative punishment for pregnant and female prisoners with small children, such as community service or probation.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. Reform of the judiciary continued during the year. The judiciary demonstrated independence and impartiality, but there were frequent media and other allegations of widespread judicial corruption. Authorities generally respected court orders, and the outcomes of trials did not appear to be predetermined.

The Judicial Services Commission--a constitutionally mandated oversight body intended to insulate the judiciary from political pressure--provides the president with a list of nominees for judicial appointment. The president selects one of the nominees for parliamentary approval. The president appoints the chief justice and appellate and High Court judges through this process. The commission, through the Judges and Magistrates Vetting Board, publicly reviews judicial appointees. The Judicial Services Commission also received and investigated complaints about

judicial misconduct, disciplined or removed judicial officers, and implemented programs for the education of judges. In contrast to 2014, the government did not dismiss any judges during the year. Observers accused the Judicial Services Commission of attempting to influence judicial decision making to the detriment of judicial independence.

There were several allegations of judicial corruption. In April 2014 the chief justice suspended four senior officials pending an investigation into alleged financial misconduct. According to *Standard Media* on December 27, the government formally dismissed all four for gross misconduct. A poll by Ipsos Synovate in March 2014 indicated that, due to corruption scandals, public confidence in the judiciary had fallen by approximately a third since 2013, with only 16 percent of respondents answering that they had a lot of confidence in the chief justice or the Supreme Court. The chief registrar pursued internal investigations into allegations of impropriety and accounting irregularities while pledging to battle corruption at all levels of the judiciary.

The constitution gives the judiciary authority to review appointments and decisions by other branches of government. In a February decision, the High Court struck down eight controversial amendments to the SLAA as unconstitutional. To date the government, which advocated the amendments, has respected the court's decision.

Parliament sometimes ignored judicial decisions. In February 2014 the Senate voted to create a committee to investigate allegations of misappropriation of public funds by the governor of Embu County, despite a court order barring such an investigation until the courts had ruled on appropriate procedures. In May 2014 the National Assembly speaker stated that the assembly was not obligated to honor unreasonable or unconstitutional court orders. The Senate voted to remove the governor of Embu while a court challenge on the vote was in progress, and the High Court upheld his removal on February 11.

The law provides for “qadi” courts, which adjudicate Muslim law on marriage, divorce, and inheritance among Muslims. There were no other traditional courts. The national courts used the traditional law of an ethnic group as a guide in personal matters as long as it did not conflict with statutory law.

Trial Procedures

Trials are public, although individuals may give some testimony in closed session.

The law provides for a presumption of innocence, and defendants have the right to attend their trials, confront witnesses, and present witnesses and evidence in their defense. The law also provides defendants the right to receive prompt and detailed information of the charges against them, with free interpretation if necessary; to have a fair and public trial without undue delay; to have access to government-held evidence; and not to be compelled to testify or confess guilt. Authorities generally respected these rights, although they did not always promptly inform persons of the charges against them.

Trial delays sometimes resulted because witnesses failed to present themselves, judges cancelled trial dates without notice, witnesses were not protected, or legal counsel failed to appear. Authorities generally respected a defendant's right to consult with an attorney in a timely manner, although there was no public defenders service. Since authorities did not process cases quickly, defendants generally had adequate time to prepare a defense if they were capable of doing so or could afford a lawyer. The government and court generally respected these rights. Indigent defendants do not have the right to government-provided legal counsel except in capital cases. The courts tried the vast majority of defendants without representation because they could not afford legal counsel. The lack of a formal legal aid system seriously hampered the ability of many poor defendants to mount an adequate defense. Legal aid was available only in major cities where some human rights organizations, notably the Federation of Women Lawyers, an international NGO, provided it.

The ODPP significantly increased the number of trained prosecutors. At year's end there were an estimated 900 state prosecutors, compared with 200 in 2013. The ODPP phased out police prosecutors entirely. The expansion of the prosecution service also reduced delays in court proceedings.

Discovery laws are not clearly defined, further handicapping defense lawyers. Implementation of a High Court ruling requiring provision of written statements to the defense before trial remained inconsistent. Defense lawyers often did not have access to government-held evidence before a trial. There were reports the government sometimes invoked the Official Secrets Act as a basis for withholding evidence. The SLAA expanded the use of evidence from electronic and other sources that previously was not admissible, and its absence led to case dismissals for lack of evidence.

There were improvements during the year in evidentiary procedures that aided the efforts of victims of violent crime to obtain justice. For example, implementation

of the 2012 change allowed police physicians to accept the examination results of clinics treating victims of sexual assault (see section 6, Women). Also a change implemented through the SLAA allowed photographs to be entered as evidence by anyone, not just by an official police photographer, provided that person could verify through testimony the cameras or other equipment used.

Defendants may appeal a verdict to the High Court and ultimately to the Court of Appeals and, for some matters, to the Supreme Court. The legal system does not provide for trial by jury; judges try all cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals may use the civil court system to seek damages for violations of human rights and may appeal its decisions to the Supreme Court as well as to the African Court of Justice and Human Rights. Corruption, political influence over the civil court system, and chronic backlogs of cases limited access to this remedy. The government in some cases failed to honor civil damage awards.

Corruption existed at all levels of the civil legal system. Bribes, extortion, and political considerations influenced the outcomes in some civil cases. Court fees for filing and hearing civil cases effectively barred some from access to the courts.

Property Restitution

There is no single established system of land tenure in the country: private titles compete with customary land rights and community land, while public land is vulnerable to squatters or to unscrupulous developers. There is no clear legal framework for issuing title deeds or for adjudicating land disputes because of legal disputes between the National Land Commission, vested with powers of land adjudication through the constitution and 2012 implementing legislation, and the Ministry of Lands.

While three quarters of the population is rural, according to the National Land Commission, only 20 percent of citizens possessed actual titles to land. According to a 2014 study by the NGO Pamoja Trust, approximately 2.7 million citizens were in danger of eviction because they lacked title to the land on which they lived.

Eighty percent of those in danger of eviction dwelled in urban informal settlements in Nairobi, Mombasa, Kisumu, and Eldoret. In 2014 the NGO Usalama Reform Forum estimated that 35 percent of all land transactions in the country since 2008, or 220,000 transactions, involved land illegally obtained, leaving these transactions open to future dispute and annulment.

There is no established system for restitution or compensation for those declared to be squatters and ordered to vacate land, nor is there a system for determining what constitutes “community” land. Both private and communal clashes were common because of land disputes. The government frequently resorted to forced eviction and demolition to restore what it claimed was illegally occupied public land. Authorities usually arranged ad hoc restitution or relocation of residents under NGO pressure.

In February 2014 the government notified an estimated 3,000 residents of the Deep Sea informal settlement in Nairobi’s Westlands neighborhood that they needed to vacate the area to make way for a planned bypass road. Deep Sea residents sought an injunction against the eviction, but the court did not grant it. The notice that the Kenya Urban Roads Authority served to affected residents expired on July 8. In July, Amnesty International reiterated its concern regarding the alleged lack of consultation by authorities with residents and compensation to cover residents’ losses. In September authorities halted the planned evictions temporarily to provide for carrying out the evictions in compliance with international human rights standards.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, except “to promote public benefit,” but authorities sometimes infringed on citizens’ privacy rights. The law permits police to enter a home without a search warrant if the time required to obtain a warrant would prejudice an investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants in the course of large-scale security sweeps to apprehend suspected criminals or to seize property believed stolen.

During Usalama Watch, a 2014 security operation focused on detaining suspected terrorists, irregular immigrants, and criminals, police conducted regular day and nighttime raids without warrants on apartment buildings and housing estates in targeted neighborhoods. According to media reports, human rights organizations, and an investigation by IPOA, police deliberately conducted raids late at night,

regularly failed to identify themselves, conducted searches without warrants, visited the same apartments and housing estates multiple times, and in numerous instances seized household goods and solicited bribes in exchange for not putting residents in detention centers. According to the inspector general of police, police did not receive any complaints about the operation (see section 1.d.). IPOA indicated, however, that it was investigating 29 complaints against police arising from the operation and intended to forward many of those complaints to the NPSC for disciplinary action. IPOA called on the inspector general of police to respond within 90 days to recommendations regarding the Usalama Watch operation. The inspector general attempted to implement some of the recommendations, but the implementation of others would require institutional changes to police operations. Action continued at year's end.

During the year police raided dozens of homes in informal settlements in Nairobi and communities in the coastal region in search of suspected terrorists and weapons. In several instances police raids uncovered arms caches and explosives. Police conducted door-to-door searches for individuals believed to be sympathizers of the al-Shabaab terrorist group. There were reports that police officers used excessive force during these raids. On September 13, the media reported that more than 50 police officers raided three houses in Mombasa searching for suspected terrorists, smashing doors and windows in the process.

Police officers frequently raided or destroyed the homes and businesses of citizens in informal settlements or other areas where residents did not hold proper legal title. Residents complained that authorities often planned these actions to extort bribes.

Human rights organizations documented numerous cases in which plainclothes police officers searched residences without a warrant and household goods were "confiscated" when residents were unable to provide receipts of purchase on demand.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, but the government sometimes restricted these rights. Parliament passed the 2014 SLAA to strengthen the government's ability to fight terrorism. NGOs, the political opposition, and the KNCHR sued to contest the constitutionality of some SLAA provisions that would

have limited the freedom of speech and the right of the media to report on terrorism cases. On February 23, the High Court declared eight provisions of the law unconstitutional, including some provisions determined to be violations of freedom of expression and media. The government respected the court's decision.

Freedom of Speech and Expression: The SLAA amended the Prevention of Terrorism Act to penalize anyone who publishes or utters a statement that a listener is likely to understand as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism. The SLAA redefined a "radicalized" individual as "a person who adopts or promotes an extreme belief system for the purpose of facilitating ideologically based violence to advance political, religious, and social change." A separate SLAA section penalized media coverage "likely to cause public alarm, incitement to violence, or disturb public peace" or that "undermines investigations or security operations by the National Police Service or the Kenya Defense Forces." On February 23, the High Court ruled these clauses unconstitutional.

Observers believed the government monitored various civil society meetings and sometimes undertook reprisals against critics of the government. The National Cohesion and Integration Commission, a government body tasked with promoting national unity, worked with police to monitor political rallies, media reports, parliamentary debate, and individual speech for instances of hate speech. For example, in June 2014 the ODPP ordered the arrest of Mombasa County Women's Representative Mishi Mboko on charges of hate speech after she allegedly stated publicly that only two tribes ruled the country and called this situation unacceptable. Mboko alleged the charges were politically motivated. Authorities prosecuted Gatundu South Member of Parliament Moses Kuria during the year for alleged hate speech in connection with postings on social media in 2014. Authorities released Kuria on cash bond in June 2014, a decision that the ODPP unsuccessfully challenged twice in court during the year (see Internet Freedom).

Press and Media Freedoms: The government occasionally interpreted laws to restrict press freedom, and officials occasionally accused the international media of publishing stories and engaging in activities that could incite violence. Two 2013 laws--the Media Council Act and the Kenya Information and Communications (Amendment) Act--greatly increased government oversight of the media by creating a complaints tribunal with expansive authority, including the power to revoke journalists' credentials and levy debilitating fines. In January 2014 media owners, the Kenya Union of Journalists, and the Kenya Editors' Guild challenged the constitutionality of the laws in court. The case continued at year's end. The

international NGO Reporters without Borders strongly criticized the government for its “authoritarian response” following negative coverage of the 2013 Westgate terrorist attack, a charge that Cabinet Secretary for Information, Communications, and Technology Fred Matiang’i publicly denied. Of the 16 other laws in place that restrict media operations, the Defamation Act, the Official Secrets Act, and the Preservation of Public Security Act placed the most severe restrictions on freedom of the press.

Violence and Harassment: Journalists alleged in a number of cases security forces harassed and physically intimidated them. For example, on September 21, authorities arrested Royal Media Services journalist Evans Asiba while he attempted to film a private school in connection with a teachers’ strike. Asiba alleged that police officers beat him in the parking lot, detained him for several hours, and confiscated his camera.

The perpetrators in other cases of violence or physical attacks on journalists were unknown. For example, unknown assailants bludgeoned to death the owner of *The Mirror* newspaper, John Kituyi, on April 30 in Eldoret, taking his cell phone but leaving his cash and watch. According to a May 3 report in the British newspaper *The Guardian*, the Committee to Protect Journalists stated that its sources linked threats levelled at Kituyi to an article in *The Mirror* on the prosecution of the country’s deputy president at the International Criminal Court. The Kenya Correspondents’ Association called the killing an assault on press freedom and stated it was part of a pattern of intimidation of journalists.

The Media Council of Kenya, an independent institution that regulates the media, released a press statement on May 29 expressing concern about “the increasing number of journalists facing threats, harassment and murdered [sic] in extreme circumstances in the course of duty in Kenya. This year alone has seen more than 10 cases of intimidation and harassment of journalists reported.” Despite these reports, most news media continued to cover a wide variety of political and social issues, and most newspapers published opinion pieces criticizing the government.

The government frequently failed to investigate allegations of harassment, threats, and physical attacks on members of the media.

Censorship or Content Restrictions: Government harassment of journalists resulted in self-censorship, particularly with respect to stories associated with International Criminal Court cases, government corruption, and crimes in which government officials applied pressure to protect implicated individuals.

The mainstream media were generally independent, but there were reports by journalists that government officials pressured them to avoid certain topics and stories and intimidated them if officials judged they had already published or broadcast stories too critical of the government. There were also reports journalists avoided covering issues or writing stories they believed their editors would reject due to direct or indirect government pressure. In a study of journalists working on corruption and governance stories published in May 2014 by the Media Council of Kenya, 68 percent of respondents believed the Kenya Information and Communications (Amendment) Act prevented adequate investigation and reporting on governance. Another 58 percent responded that authorities warned or reprimanded their organizations for publishing “wrong” information on corruption and governance, and 31 percent responded that possible intimidation from government agencies being investigated was their greatest threat while conducting research.

Libel/Slander Laws: Government officials and politicians threatened and brought defamation cases against the media. Libel and slander remain criminal offenses, although authorities did not charge any journalists during the year. Devolution and Planning Cabinet Secretary Anne Waiguru filed a suit in August against Google, its subsidiary Blogger Inc., and the *Daily Post* website over an allegedly defamatory story published by the newspaper in April and May 2014; Google refused to provide the identities of the *Daily Post*'s owners.

National Security: The government cited national or public security as grounds to suppress views that it considered politically embarrassing.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Authorities, however, monitored websites for violations of hate speech laws. In June 2014 the director of public prosecutions ordered the prosecution of The National Alliance political activist Moses Kuria for incitement and hate speech on Facebook. This followed a recommendation by the National Cohesion and Integration Commission. Voters elected Kuria to the National Assembly in a by-election in August 2014. The court case continued at year's end.

By law mobile telephone service providers may block mass messages they judge would incite violence. The National Cohesion and Integration Commission tracked bloggers and social media users accused of spreading hate speech.

According to the Communications Authority of Kenya, as of September there were 32 million internet users--74 percent of the population--representing a significant increase, including 22 percent growth in mobile data subscriptions in the third and fourth quarters. A lack of infrastructure inhibited internet access in less developed parts of the country.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Although the constitution and law provide for freedom of assembly, the government sometimes restricted this right. Police routinely denied requests for meetings filed by human rights activists, and authorities dispersed persons attending meetings that had not been prohibited beforehand. Organizers must notify local police in advance of public meetings, which may proceed unless police notify organizers otherwise. By law authorities may prohibit gatherings only if there is another previously scheduled meeting at the same time and venue or if there is a perceived specific security threat.

Authorities used the threat of charges for incitement as a means of discouraging demonstrations. In July 2014 the High Court dismissed an attempt by a politician to obtain a court judgment barring the leader of the Coalition for Reforms and Democracy (CORD), Raila Odinga, from calling for “mass action” prior to CORD’s “Saba Saba” rally that month. Separately, in response to the possibility that CORD and the ruling Jubilee Coalition might hold competing rallies that month, the inspector general of police ordered a prohibition of political demonstrations that day on the grounds of limited security support but quickly withdrew the order after public criticism.

Police used excessive force to disperse demonstrators. In January police used tear gas and dogs to disperse a peaceful protest by teachers and students of Langata Road Primary School, causing multiple injuries. The president and cabinet

secretary for interior apologized to the students for the incident. IPOA investigated and referred the case to the ODPP.

In January riot police killed one person and injured several in Narok Town when they fired shots and teargas at thousands of individuals demonstrating against the Narok County governor for alleged financial improprieties. According to a January 26 Reuters article, Narok County commissioner Kassim Farah stated that authorities should hold the organizers of the demonstration responsible rather than police. After an IPOA investigation, the ODPP charged one officer with murder, another with attempted murder and causing serious injuries, and a third officer with causing serious injuries. At year's end authorities had not tried the cases.

There were complaints during the year that police were available for hire by private interests to dissuade or disperse demonstrators.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right, but there were reports that authorities arbitrarily denied this right in some cases. In at least one case, however, courts affirmed the right to freedom of association. In July 2014 the High Court ruled gender was irrelevant to the registration of NGOs, and the NGO Coordination Board's failure to register the NGO Transgender Education and Advocacy was an abuse of power. In April a High Court panel decided the board's inability to register the National Gay and Lesbian Human Rights Commission (NGLHRC) because homosexuality was illegal violated the constitutional right to freedom of association and ordered the board to register it.

The Societies Act requires that every public association be either registered or exempted from registration by the Registrar of Societies. The NGO Coordination Act requires that NGOs dedicated to advocacy, public benefit, or the promotion of charity or research register with the NGO Coordination Board. On April 7, the board canceled the licenses of three NGOs--MUHURI, Haki Africa, and the Agency for Peace and Development (APD)--for alleged links to terrorism. Authorities froze the bank accounts of all three. Critics accused the government of targeting MUHURI and Haki Africa for their outspoken criticism of the government's human rights record. All three organizations challenged the deregistration decisions in court. As of mid-September, authorities registered the APD. The High Court in Mombasa ruled that the NGO Coordination Board's decision to deregister Haki Africa and MUHURI violated due process. On

November 12, the High Court in Mombasa ruled that the state's action to freeze the two organizations' accounts was unconstitutional, and ordered the accounts unfrozen.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights but increasingly enforced restrictions on refugees' movements.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, asylum seekers, and other persons of concern. Although many stateless persons did not qualify for protection under the local refugee determination apparatus, other legal safeguards existed, and UNHCR continued to work with the government to improve protection of stateless persons, including providing access to services and appropriate documentation.

In-country Movement: Kenya hosts the second largest refugee population on the continent. Regional insecurity and conflict have forced the country to play a leading role in coping with refugee flows, especially from Somalia, South Sudan, the Democratic Republic of the Congo, and Ethiopia. The government's appeal of a 2013 High Court ruling that blocked a plan to relocate all urban refugees to camps remained unresolved. In early 2014 the government published an official notice declaring the Kakuma and Dadaab refugee camps as the designated areas for refugees. Because of this change in policy, the same High Court judge reversed his 2013 ruling that blocked an encampment policy and, in a separate 2014 case, ruled in favor of the encampment policy. In the interim, the government's Department of Refugee Affairs stopped registering refugees. Restrictions on refugees' movements, however, remained in effect. The SLAA contained provisions capping the number of refugees allowed in the country at 150,000, requiring asylum seekers to present themselves to the refugee commissioner immediately rather than within 30 days of arrival, and requiring all refugees to remain in camps. On February 23, the High Court ruled the cap was

unconstitutional, but upheld the provisions requiring encampment and asylum seekers to present themselves immediately upon arrival in the country. Police routinely stopped individuals and vehicles throughout the country, ostensibly to enforce the directive, particularly in urban areas. According to UNHCR and NGO reports, they often solicited bribes. Police frequently required ethnic Somalis to provide additional identification beyond normal requirements.

The government granted limited travel permission to refugees to receive specialized medical care outside the camps, to refugees enrolled in public schools, and to refugees in the resettlement pipeline. It made exceptions to the encampment policy for extremely vulnerable groups in need of protection.

From January through July, the Department of Refugee Affairs issued 2,896 temporary movement passes to refugees and asylum seekers. UNHCR reported that approximately 90 percent returned to their camps by the time their passes for travel expired. Authorities charged 240 refugees and asylum seekers with being unlawfully present in the country (under the Citizenship and Immigration Act) and residing without authority outside designated areas (under the Refugees Act). Of the 240 refugees and asylum seekers, authorities discharged 133 and returned them to the camps, convicted 98 and ordered them to pay fines or serve three to six months in prison, and continued the cases of nine as of year's end.

Foreign Travel: Civil servants and members of Parliament must obtain government permission for international travel, which authorities generally granted.

Internally Displaced Persons

According to the international NGO Internal Displacement Monitoring Center (IDMC), as of April there were an estimated 309,200 IDPs in the country. Authorities believed, however, that an unknown number had resettled or returned home. The estimate included IDPs displaced by ethnic, political, and land-related violence since the 1990s, an estimated 50,000 persons who fled because of the 2007-08 post-election violence, and approximately 112,000 persons reported as displaced because of intercommunal clashes prior to and following the 2013 general election. Observers believed that most of those displaced in prior years returned home. According to the IDMC, 60,000 of those displaced in 2014, however, were still living in camps in Mandera County as of December 2014.

Violence in Mandera County in 2014 between the communities of Mandera North district and Banisa district, and on the border between Mandera and Wajir counties, resulted in the displacement of an estimated 32,000 households. Water scarcity exacerbated communal conflict and left an unknown number of citizens internally displaced.

IDPs from all locations generally congregated in informal settlements and camps. Living conditions in such settlements and camps remained poor, with rudimentary housing and little public infrastructure or services. There were reports some IDPs in camps died of preventable diseases due to squalid conditions and limited access to health care. Grievances and violence between IDPs and host communities were generally resource-based and occurred when IDPs attempted to graze livestock or gather food and fuel locally. In the north, IDP settlements primarily consisted of displaced ethnic Ethiopians and Somalis and were targets of clan and resource-based violence. In Lamu and the coastal region in July, intercommunal threats and violence between IDPs fleeing attacks by militants linked to al-Shabaab and host communities prompted an estimated 5,000 persons, primarily members of the Kikuyu, Luhya, and Kisii tribes, to seek refuge on the premises of Hindi Prison.

The government continued to pressure IDPs to return to their homes. NGOs reported that authorities sometimes withheld supplies of food and medicine to place pressure on residents. Media reports indicated that some resettled residents were exposed to sexual violence and harassment. There were reports the government abandoned some IDPs after moving them to temporary resettlement locations. According to *The Star* newspaper on September 1, more than 300 persons fleeing attacks by the al-Shabaab terrorist group in Basuba Ward in Lamu County were displaced, and a Kenya Red Cross Society coordinator stated that the IDPs were in dire need of clean water to prevent outbreaks of diseases, such as cholera. In response to reports of citizens fleeing a security operation to flush al-Shabaab from the Boni Forest in Lamu and southern Garissa counties, national authorities announced they would assist those IDPs.

Protection of Refugees

On February 23, the High Court declared eight provisions of the SLAA unconstitutional, including a provision imposing refugee quotas. The court declared the quotas a violation of the right of asylum enshrined in the 1951 UN Refugee Convention. It upheld provisions requiring those seeking asylum to report immediately to the refugee commissioner as well as requiring refugees to remain in designated refugee camps.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has a system for providing protection to camp-based refugees. While the government generally coordinated with UNHCR to provide assistance and protection to refugees in the Dadaab and Kakuma refugee camps in the countryside, cooperation was limited in urban areas. Security threats emanating from Somalia severely strained the government's ability to provide security to those seeking asylum, especially in Dadaab, thereby impeding the efforts of UNHCR and other humanitarian organizations to assist and protect refugees and asylum seekers.

According to UNHCR, as of November the country hosted 591,570 registered refugees and asylum seekers in Dadaab (346,428) and Kakuma (183,023) refugee camps and in the Nairobi area (62,119). The unofficial estimate of refugees in urban areas exceeded 100,000. The majority of refugees and asylum seekers were from Somalia (418,581) with others coming from South Sudan (94,487), Sudan (10,193), the Democratic Republic of the Congo (DRC) (24,006), Ethiopia (30,687), and other countries (13,616). Most refugees arriving in Kakuma were from South Sudan, although their numbers were lower than in 2014 and the refugee population of Dadaab was primarily of Somali origin. New arrivals also included individuals from Burundi, the DRC, Ethiopia, Somalia, and Uganda. The Somali refugee influx was lower than in previous years. In 2013 the governments of Kenya and Somalia and UNHCR signed a tripartite agreement establishing a legal framework and process for the voluntary repatriation of Somali refugees when conditions permitted such returns. Under the tripartite framework, UNHCR began facilitating voluntary returns to Somalia in December 2014 and had supported the return of more than 6,000 Somali refugees as of December.

Negotiations between UNHCR, the Department of Refugee Affairs, the Turkana County government, and the host community on land allocation for a new camp near Kakuma concluded on June 19, when the county governor signed over land for a new camp to UNHCR. Observers expected the camp would host 85,000 residents once completed.

No official national refugee count existed because the government stopped registering refugees in urban areas in 2012 and in the Dadaab camp in 2011. According to UNHCR, registration of urban refugees and limited sporadic registration in Dadaab resumed during the year. Registration continued uninterrupted in the Kakuma refugee camp. The government recognized as refugees all arrivals from South Sudan and from south and central Somalia. Some

new arrivals reported, however; that immigration officials charged them visa fees upon entry from South Sudan because the officials lacked any formal system to differentiate asylum seekers from regular cross-border movements.

Refoulement: According to UNHCR, six individuals granted refugee status by the government were among those forcibly deported to Somalia by authorities during the Usalama Watch antiterror operation in 2014. The government deported more than 365 irregular immigrants during the operation.

Refugee Abuse: Police abuse of asylum seekers and refugees continued, with most reports coming from Nairobi's predominantly Somali Eastleigh neighborhood.

Witnesses alleged security forces routinely confiscated or destroyed both expired and valid UN refugee documents and frequently demanded bribes to release persons in detention or in the process of arrest.

Somali refugees, particularly in Nairobi and in the Northeast, including in the Dadaab refugee camp, experienced frequent harassment. According to media and NGO reports, police and military personnel retaliated for al-Shabaab attacks on security personnel by subjecting these refugees to abuse.

The security situation in Dadaab remained precarious. Some humanitarian NGOs temporarily suspended operations because of a deterioration in security, including Doctors without Borders (MSF) in May. In October government security forces rescued a Kenyan NGO worker kidnapped from Dadaab and held for four days in Somalia. Increased police presence in the camps led to some improvements and cooperation with refugees through community policing and neighborhood watch initiatives. Violence also occasionally flared over Dadaab host community protests about employment and priority contract rights related to the camp.

Sexual and gender-based violence remained problems in both the Dadaab and Kakuma refugee camps. Reported incidents included domestic violence, rape, sexual assault, physical assault, psychological abuse, FGM/C, and forced marriage, particularly of young Sudanese, South Sudanese, and Somali girls. Refugee communities sometimes targeted opponents of FGM/C. Health and social workers in Kakuma refugee camp reported that, due to strong rape awareness programs in the camp, survivors increasingly reported such incidents, resulting in improved access to counseling. In the Dadaab refugee camps, however, the government's limited effectiveness and UNHCR's restricted access and limited ability to provide

services or protection resulted in higher numbers of cases of sexual and gender-based violence and underreporting of crimes and abuse.

While mobile courts continued to serve the camp populations, most crimes went unreported. Refugees generally dealt with criminality in accordance with customary law and traditional practices rather than through the country's justice system.

Other security problems in refugee camps included banditry, ethnic violence, and the harassment of Muslim converts to Christianity, according to UNHCR.

Stateless Persons

The constitution and the 2011 Citizen and Immigration Act provide for the protection of stateless persons and for legal avenues for eligible stateless persons to apply for citizenship. In 2014 UNHCR reported that 21,120 stateless persons were registered in the country; the actual number, however, was unknown. According to UNHCR, stateless persons accounted for 3.5 percent of all registered refugees and asylum seekers in the country in 2014. Communities known to UNHCR as stateless included Sudanese Nubians in Nairobi, the Somali Galjeel in the Tana River area, the Mozambican Makonde in Mombasa, and the Pemba in Kwale. There were also a number of stateless persons of mixed Eritrean-Ethiopian heritage.

Although legal safeguards and pathways to citizenship for stateless persons exist, the government lacked a strategy to identify and register them, significantly limiting their ability to acquire legal residence or citizenship. Stateless persons had limited legal protection and encountered travel restrictions, social exclusion, and heightened vulnerability to trafficking, sexual and gender-based violence, exploitation, forced displacement, and other abuses. UNHCR reported that stateless persons faced restrictions on internal movement and limited access to basic services, property ownership, and registration of births, marriages, and deaths. Inadequate documentation sometimes resulted in targeted harassment and extortion by law enforcement officials and exploitation in the informal labor sector.

National registration policies require citizens age 18 and older to register and obtain national identification documents from the National Registration Bureau. Failure to do so is a crime. Groups with historical or ethnic ties to other countries faced higher burdens of proof in the registration process. For example, Nubians,

along with ethnic Somalis (such as the Galjeel community) and Muslims on the coast, experienced discriminatory registration policies that led to statelessness, according to UNHCR and domestic legal aid organizations (see section 3).

The government set a deadline of August 2016 for stateless persons to apply for citizenship but did not create any institutions to facilitate applications for citizenship by stateless persons. To extend the deadline, Parliament would need to amend the Citizenship and Immigration Act. The law includes provisions for registration of children of stateless parents, but the government lacked a plan to identify and register stateless persons, limiting its ability to take advantage of the law.

Many stateless persons did not qualify for protection under the local refugee determination apparatus. Among these were Somali refugees born in Kenyan refugee camps and Sudanese and South Sudanese refugees.

The government took no action to grant citizenship to children of Nubian descent, despite the 2011 finding by the African Committee of Experts on the Rights and Welfare of the Child that it should do so.

In 2013 Cabinet Secretary for Land Charity Ngilu announced the allocation of 300 acres of public land to a private group representing the Nubian Council of Elders for the settlement of stateless persons. The council asserted an ancestral claim to approximately 700 acres of land, including the large Kibera informal settlement in Nairobi. The National Land Commission protested that it had not approved the allocation. The case continued during the year. UNHCR reported that it was working with the government and NGOs to develop a national action plan to address nationality and stateless person's issues.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to change their government through free and fair periodic elections based on universal and equal suffrage, and citizens exercised that ability. International observers found the 2013 elections generally credible, and the Independent Electoral and Boundaries Commission subsequently oversaw 34 successful by-elections.

The constitution provides for parliamentary representation by women, youth, persons with disabilities, ethnic minorities, and marginalized communities. Implementation of constitutional reforms continued during the year but was

uneven at times. On August 26, the National Assembly passed a bill extending by one year the five-year deadline for the adoption of 28 pending constitutionally mandated laws, including laws to implement the constitutional principle that no gender should encumber more than two-thirds of elective and appointed offices, as well as land and other laws.

Struggles among different branches and levels of government complicated implementation of the constitution, particularly the devolution of authority to the county level. The governmental Commission for the Implementation of the Constitution publicly warned Parliament against regularly amending draft legislation to delegate more authority to itself over the other branches of government, particularly county governors and the judiciary. At the county level, struggles between governors and the local representatives of the executive branch; county commissioners; and between governors and members of the county assemblies has hampered implementation. Fundamental differences in opinion among branches and layers of government over responsibility for the allocation and distribution of resources created persistent service delivery shortfalls.

Elections and Political Participation

Recent Elections: In 2013 citizens voted in the first general election under the 2010 constitution, electing executive leadership and parliamentarians, including members of the then newly established Senate, county governors, and members of new county assemblies. International and domestic observers, such as the Kenya Elections Observation Group, the Africa Union Observer Mission, and the Carter Center, judged the elections generally free and credible, although some civil society groups raised concerns about irregularities and questioned the results. In the presidential election, Jubilee Coalition candidate Uhuru Kenyatta won with a margin significantly above that of runner-up candidate Raila Odinga of CORD. Odinga challenged the results in a petition to the Supreme Court, citing irregularities in voter registration and technical problems with vote tallying. The Supreme Court ruled unanimously in 2013 to uphold the results. The political opposition, led by Odinga, vowed to reform the Independent Electoral and Boundaries Commission through a referendum.

To reduce voter fraud, the government instituted biometric voter registration ahead of the 2013 elections. The electoral commission registered 14.3 million citizens. Possession of a national identity card or passport was a prerequisite for voter registration. The Independent Electoral and Boundaries Commission, census bureau, and Ministry of Immigration estimated that at least three million voting-

age citizens, primarily youths, did not have national identity cards, while civil society organizations estimates put the number closer to five million. Ethnic Somali and Muslim persons on the coast and the ethnic Nubian population in Nairobi complained of discriminatory treatment in the issuance of registration cards, noting that authorities sometimes asked them to produce documentation proving their parents were citizens.

In order to improve voter registration, the Independent Electoral and Boundaries Commission launched a voter registration drive in April 2014. Observers criticized the commission, however, for conducting a “silent launch,” without national publicity. Members of Parliament alleged that this approach left the commission open to claims of selective registration but did not directly accuse it of bias. Political parties also launched early voter registration drives in an effort to mobilize voters bypassed during the 2013 elections.

The Independent Electoral and Boundaries Commission conducted numerous by-elections in 2014 and during the year that observers and participants deemed free and fair. Observers judged five by-elections for the Senate, National Assembly, and county assemblies that took place peacefully during the year as fair.

Participation of Women and Minorities: Voting and the participation of women and members of minorities in the electoral process on the same basis as men or nonminority citizens remained low. The constitution provides that no more than two-thirds of persons elected or appointed to a governmental body may be of one gender, but authorities did not fully implement that provision. The constitution and law did not address minority participation.

A comprehensive study by the Federation of Women Lawyer’s and the National Democratic Institute, *A Gender Audit of Kenya’s 2013 Election Process*, identified significant barriers to women’s participation in the political process, including irregularities in political party primaries that prevented women from competing in elections; consistent lack of political party support for female candidates; the consistent failure of political parties to adhere to their own stated procedures for choosing candidates; and harassment, intimidation, and violence against women. The study reported that women comprised 52 percent of the population but only 47 percent of registered voters. Female candidates reported that male politicians used the existence of “reserved” seats as grounds for discouraging female candidates from contesting other positions.

Despite these obstacles, the overall success rate of women candidates who ran for

positions in the 2013 national elections was 12 percent, compared with the 14 percent success rate for male candidates. Of 86 total members in the 11th Parliament, women made up 19 percent of the National Assembly and 27 percent of the Senate, compared with 9.5 percent in the (unicameral) 10th Parliament (2007-12). In December 2012 the Supreme Court directed that the gender requirement be phased in over time. The court set a deadline of August 27 for Parliament to institute a mechanism to comply with the gender requirement but extended it in August by one year.

Following the 2013 election, women occupied more leadership roles in government but remained underrepresented, especially in parliamentary committees. The president nominated women for key positions in the cabinet, including foreign affairs, defense, and devolution and planning.

The constitution provides for the representation in government of ethnic minorities, but implementation was incomplete.

Section 4. Corruption and Lack of Transparency in Government

The criminal code and the 2013 Anticorruption and Economic Crimes Act provide criminal penalties for official corruption. The government did not implement these laws effectively, however, and officials frequently engaged in corrupt practices with impunity.

Although it commenced several high-profile corruption investigations during the year, the government did not successfully conclude any prosecutions of high-level officials for corruption. Officials from agencies tasked with fighting corruption, including the Ethics and Anticorruption Commission (EACC), the ODPP, and the judiciary, were sometimes the subject of corruption allegations.

The World Bank's Worldwide Governance Indicators for 2014, the most recent data available, indicated that corruption was a severe problem. According to a University of Nairobi/Afrobarometer report issued in April, a majority of citizens said that corruption had increased during the previous year, and the government had performed poorly in fighting it. According to the report, police, government officials, members of Parliament, and business executives were most widely perceived as corrupt. A majority of participants who said they paid bribes did not report the incidents. The main reasons for nonreporting were fear of retaliation and perceived inaction by authorities. Official corruption was pervasive at all

levels of government, often in the form of land seizures, conflict of interest in government procurement, and demands for bribes.

The EACC, an independent agency created in 2011, has the legal mandate to investigate official corruption allegations, develop and enforce a code of ethics for public officials, and engage in public outreach on corruption. The EACC, however, lacks prosecutorial authority and must refer cases to the ODPP to initiate prosecutions. The EACC and the ODPP lacked the technical and financial capacity to execute their mandates fully.

The EACC continued to implement a five-year strategic plan, adopted in 2014, designed to increase its capacity. The government increased the EACC's budget significantly during the year, from 1.8 billion shillings (\$17.6 million) in 2014 to 2.6 billion shillings (\$25.4 million). According to the government's *Economic Survey for 2015*, the EACC increased the number of cases it handled by 19.4 percent, from 3,355 in 2013 to 4,006 in 2014. Between January and November, the EACC referred 117 cases to prosecutors and obtained six convictions. There were 286 corruption cases pending in court.

The EACC made some progress in ensuring that government ministries, departments, and independent commissions developed leadership and integrity codes as required by the 2012 Leadership and Integrity Act. As of October 22, 38 ministries, departments, and independent commissions had submitted ethics codes to the EACC for approval. Those government institutions that failed to comply with the act's requirements, however, included some of those charged with eradicating corruption, including the Judicial Service Commission, the Parliamentary Service Commission, the Public Service Commission, the ODPP, the Office of the Auditor General, and the Commission on Administration of Justice.

On March 26, the president ordered the release of a confidential EACC report containing corruption allegations against 124 government officials, including five cabinet secretaries and three principal secretaries. As of September the EACC had submitted 59 of those cases to the ODPP, which approved 32 cases for prosecution. These included cases against two cabinet secretaries (Transport Secretary Michael Kamau and Lands Secretary Charity Ngilu), two governors (Murang'a Governor Mwangi wa Iria and Garissa Governor Nadhif Jama), four members of Parliament, several directors of state corporations, and a number of county officials. Those cases continued at year's end. There were numerous similar abuses reported during the year.

In 2013, during implementation of the 2010 constitution, the government initiated a new system of devolved governance through which the national government began sharing responsibilities and revenues with 47 newly established county governments led by directly elected governors. Many county executive committees struggled with budgeting fundamentals and financial accountability.

On March 25, the president issued an executive order for the implementation of a Code of Governance for Government-Owned Entities. The code, developed in consultation with the World Bank, instituted some corporate governance standards consistent with those adopted by the Organization for Economic Cooperation and Development, the King III Report on Corporate Governance, and the Malaysia Code.

The government continued a push to digitize government services in an effort to increase fiscal transparency. A government website launched by the president in 2013, where citizens could anonymously report corruption and bribery by government officials, was not functional. In July the president committed to complete reinstating it by December, and an online procurement system designed to reduce fraud became mandatory for national and county government offices. An electronic system for tracking imports and exports, designed to reduce graft and improve revenue collection, became operational during the year.

Corruption: While police and government corruption was widely viewed as endemic, authorities rarely arrested and prosecuted public officers (see section 1.d.). Observers reported bribe taking by immigration officials during the year. According to widespread international and local media reporting following the April terrorist attack in Garissa, corruption by security agencies at border points was widespread and may have contributed to security lapses in preventing terrorist attacks.

Officers set up roadblocks to solicit bribes from those who were not in possession of identification documents. According to IPOA, bribes solicited ranged from 2,000 to 20,000 shillings (\$19.60 to \$197) on a sliding scale depending upon individuals' ethnicity, whether they were carrying identification, and whether they were refugees. In June the Judiciary and National Police Service released new measures to reform the handling of traffic cases by police and courts, streamlining the management of traffic offenses to curb corruption.

Financial Disclosure: The law requires all public officers to declare their income, assets, and liabilities to their “responsible commission” (for example, the Parliamentary Service Commission in the case of members of Parliament) every two years. Public officers must also include income, assets, and liabilities of their spouses and dependent children under age of 18. Information contained in these declarations was not readily available to the public, and the relevant commission must approve requests to obtain and publish this information. Any person who publishes or otherwise makes public information contained in public officer declarations without such permission may be subject to imprisonment for up to five years, a fine of up to 500,000 shillings (\$4,902), or both. Authorities also required police officers undergoing vetting to file financial disclosure reports for themselves and their immediate family members. These reports were publicly available (see section 1.d.).

The 2012 Leadership and Integrity Act requires public officers to register potential conflicts of interest with the relevant commissions. The law identifies interests that public officials must register, including directorships in public or private companies, remunerated employment, securities holdings, and contracts for supply of goods or services, among others. The law requires candidates seeking appointment to nonelective public offices to declare their wealth, political affiliations, and relationships with other senior public officers. This requirement is in addition to background screening on education, tax compliance, leadership, and integrity. Many officials met these requirements and reported potential conflicts of interest. The government generally did not seek criminal or administrative sanctions for noncompliance. Authorities did not strictly enforce ethics rules relating to the receipt of gifts and hospitality by public officials.

There were no challenges to any declarations of wealth or conflicts of interest filed by public officials.

Public Access to Information: The constitution provides citizens access to information held by the state and requires the government to publish and publicize important information affecting the country. There is no freedom of information implementing legislation, however, and the government frequently did not respond to requests for information. The government did make some information available on the internet.

In 2011 the government joined the Open Government Partnership, a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to

strengthen governance. It also launched a website, the Kenya Open Data Portal to provide a comprehensive and transparent site for citizens to access data from government ministries. The website contains census data and information on government expenditures, parliamentary proceedings, and public service delivery locations. In July the portal was a finalist in a global competition held by the Bloomberg company and the United Kingdom's Open Data Institute.

Of the Open Government Partnership's four goals (citizen engagement, fiscal transparency, access to information, and income and asset disclosure), the government made the most progress in fiscal transparency and income and asset disclosure through institution of its online tender system and automated tax payment systems.

In March the government launched a news portal allowing citizens to access information about government services, initiatives, programs, and policies. Information on the site generally appeared to be up to date and accurate.

The government televised its spokesperson's briefings and broadcast parliamentary debates live on television and radio.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, although many groups reported experiencing increased government harassment during the year. Officials were sometimes cooperative and responsive to the queries of these groups, but the government generally ignored recommendations by human rights groups if such recommendations were contrary to its policies. There were reports that officials intimidated NGOs and threatened to disrupt their activities. Less-established NGOs, particularly in rural areas, reported harassment and threats by county-level officials as well as security forces. Human rights activists claimed security forces conducted surveillance of their activities, and some reported threats and intimidation.

Days after a terrorist attack on Garissa University College, in which terrorists killed more than 147 individuals, the government published in the official gazette a list of 86 individuals and entities that allegedly supported terrorism and took administrative action to freeze their bank accounts. This list included two human rights NGOs, MUHURI and Haki Africa, and a development NGO, the Agency for

Peace and Development. Domestic and international human rights NGOs, including Human Rights Watch, raised objections over the lack of notice given before the government action. On April 20, Haki Africa and MUHURI reported that tax authorities raided their offices, removing their computers and financial records; some employees reported security agents followed them, including to their homes. On May 28, the NGO Coordination Board canceled the licenses of MUHURI and Haki Africa. Critics accused the government of targeting these organizations for their defense of human rights. In June Human Rights Watch, Amnesty International, the Civil Society Organizations Reference Group, and the National Civil Society Congress issued statements calling on the government to stop harassing NGOs in the coastal area, specifically MUHURI and Haki Africa. MUHURI and Haki Africa sued the government and obtained a judgment that their listing as entities supporting terrorism had no legal basis. On November 12, the High Court ordered the organizations' bank accounts unfrozen (see section 2.b.).

In September a preliminary KNCHR report stated that security agencies did not provide the KNCHR with access to case-specific information and facilities to conduct investigations of human rights abuses in line with the constitution. The report called on the government to direct security agencies to cooperate with the KNCHR. Such cooperation, however, had not happened by year's end.

The United Nations or Other International Bodies: The government generally ignored recommendations of the United Nations or other international human rights groups if they were contrary to government policies.

Government Human Rights Bodies: Legislation passed in 2011 transformed the KNCHR from an autonomous human rights institution to a constitutional commission, thereby stripping it of its powers to issue summonses, order the release of prisoners, and order compensation for human rights abuses. The terms of all the KNCHR commissioners, including the chair and subsequent acting chairs, expired in 2012 and 2013; their seats remained vacant until May 2014 when the government appointed new leadership. Human rights organizations alleged the government continued to restrict funding to the KNCHR to prevent it from carrying out investigations or issuing reports, although its funding increased modestly during the year. In September the KNCHR issued a report containing allegations that security forces committed human rights abuses during their crackdown on terrorism, including during the Usalama Watch operation in 2014 and security operations following the terrorist attack at Garissa University College in April.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, religion, ethnic or social origin, disability, and marital or health status. Government authorities did not effectively enforce many of these provisions, and discrimination against women; lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; individuals with HIV/AIDS; persons with disabilities; persons suspected of witchcraft; and certain ethnic groups was a problem. There was also evidence that some national and local government officials tolerated, and in some instances instigated, ethnic violence. The law criminalizes homosexual activity.

Women

Rape and Domestic Violence: The law criminalizes rape, defilement, and sex tourism; enforcement remained limited, and civil society groups indicated victims did not report as much as 92 percent of sexual offenses to police. In May the Protection against Domestic Violence Act was signed into law, criminalizing abuses that include early and forced marriage, FGM/C, forced marriage, forced wife inheritance, and sexual violence within marriage. The act's definition of violence also includes damage to property, defilement, economic abuse, emotional or psychological abuse, harassment, incest, intimidation, physical abuse, stalking, verbal abuse, or any other conduct against a person that harms or may cause imminent harm to the safety, health, or the well-being of the person.

In November 2014 several women were publicly assaulted and stripped in Nairobi and Mombasa by gangs of men claiming they were "indecently" dressed. Authorities arraigned seven men, including one police officer, in court on assault charges for the incidents. In April a Nairobi court rejected an application to drop the charges, and the cases continued as of October. Under the SLAA, insulting the modesty of another person by intruding upon that person's privacy or stripping them of clothing are criminal offenses punishable by imprisonment up to 20 years.

The law provides a maximum penalty of life imprisonment for rape, although sentences were at the discretion of the judge and usually no longer than the minimum of 10 years.

Citizens frequently used traditional dispute mechanisms to address sexual offenses in rural areas, with village elders assessing financial compensation for the victims or their families. They also used traditional dispute mechanisms occasionally in urban areas. NGOs reported difficulties obtaining evidence and the unwillingness

of witnesses to testify in sexual assault cases in areas where citizens employed traditional dispute mechanisms.

A study released in 2014 by the Usalama Reform Forum estimated that victims reported only 40 percent of rape cases to police. A 2014 study by the NGO Peace Initiative Kenya identified 383 cases of rape reported in the media between January and May, noting a 15 percent increase from the same period in 2012. The study stated that the Women's Hospital of Nairobi reported receiving an average of 18 cases of rape and incest daily. The Coalition on Violence against Women estimated 16,500 rapes occurred per year.

The rate of reporting and prosecution of rape remained low. Although police no longer required physicians to examine victims, physicians still had to complete official forms reporting the crime. Rural areas generally had no police physician, and even in Nairobi there were only two. NGOs reported police physicians often but inconsistently accepted the examination report of clinical physicians who initially treated victims.

Other factors explaining the low reporting and prosecution rates for rape included a cultural inhibition against publicly discussing sex, particularly sexual violence; stigma attached to rape survivors; survivors' fear of retribution; police reluctance to intervene, especially in cases where the victim accused family members, friends, or acquaintances of committing the rape; and poor training of prosecutors. Reporting also remained low due to traditional attitudes toward sexual violence. Police did not investigate numerous reported cases of sexual violence; courts dismissed many cases due to lack of evidence.

Domestic violence against women was widespread. Police officers generally refrained from investigating domestic violence, which they considered a private family matter. NGOs, including the Law Society of Kenya and the Federation of Women Lawyers, provided free legal assistance to some victims of domestic violence.

Female Genital Mutilation/Cutting (FGM/C): The law makes it illegal to practice FGM/C, procure the services of someone who practices FGM/C, or send a person out of the country to undergo the procedure. The law also makes it illegal to make derogatory remarks about a woman who has not undergone FGM/C. Nevertheless, individuals practiced FGM/C widely, particularly in some rural areas.

FGM/C was usually performed on victims at an early age. According to UNICEF,

27 percent of girls and women between ages 15 and 49 had undergone FGM/C. Of the 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana, who together constituted approximately 25 percent of the population) did not traditionally practice FGM/C. Approximately 98 percent of ethnic Somali girls and women ages 15-49 living in the country have undergone FGM/C. Government officials often participated in public awareness programs to prevent the practice.

The media reported growing numbers of female students refused to participate in FGM/C ceremonies, traditionally performed during the August and December school holidays. Some churches and NGOs provided shelter to girls who fled their homes to avoid FGM/C, but community elders frequently interfered with attempts to stop the practice. Various communities and NGOs instituted “no cut” initiation rites for girls as an alternative to FGM/C, but in some communities this effort was unsuccessful. The media reported arrests of perpetrators and parents who agreed to FGM/C, but parents in regions with a high prevalence of FGM/C frequently bribed police to allow the practice to continue. There were also reports the practice of FGM/C increasingly occurred underground to avoid prosecution by authorities.

Some communities protested in support of FGM/C. On January 16, *The Daily Nation* reported women in Narok County demonstrated in support of FGM/C, taking hostage two women who intervened to rescue girls scheduled to undergo the practice. On March 10, Reuters reported that ethnic Somali families living in the United Kingdom and the United States were bringing their daughters to Kenya to undergo FGM/C secretly.

Other Harmful Traditional Practices: Certain communities commonly practiced wife inheritance, in which a man inherits the widow of his brother or other close relative, regardless of her wishes. Such inheritance was more likely for economically disadvantaged women with limited access to education living outside major cities. Other forced marriages were also common. In 2014 Parliament passed legislation that codified the right of men to marry multiple women without securing their consent.

Sexual Harassment: The law prohibits sexual harassment. Sexual harassment was often not reported, and victims rarely filed charges. IPOA investigated one reported case of police officer promotions resulting from sexual favors.

Reproductive Rights: The constitution recognizes the right of couples and individuals to decide the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and

violence. Subsidized contraception options, including condoms, birth control pills, and long-acting or permanent methods, were widely available to both men and women throughout the country, although access was more difficult in rural areas. In 2014 the UN Population Fund estimated that 46 percent of girls and women between ages 15 and 49 used a modern method of contraception. Skilled obstetric, prenatal, and postpartum care were available in major hospitals, but many women could not access or afford these services. Skilled health-care personnel attended an estimated 44 percent of births in 2014. Observers estimated 20 percent of maternal deaths to be AIDS-related. In 2014 First Lady Margaret Kenyatta launched the “Beyond Zero Campaign,” a government effort to improve maternal health and reduce maternal mortality. This program continued during the year.

Discrimination: The constitution provides equal rights for men and women and specifically prohibits discrimination on the grounds of race, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language, or birth. Women held only 6 percent of land titles, of which the majority were joint titles, and accessed only 7 percent of formal credit awarded in the country. The justice system and widely applied customary laws often discriminated against women, limiting their political and economic rights. The National Gender and Equality Commission signed an agreement with UN Women in July to support initiatives that were aimed at reducing gender inequalities and discrimination.

The constitution prohibits gender discrimination in relation to land and property ownership and gives women equal rights to inheritance and access to land. The constitution also provides for the enactment of legislation for the protection of wives’ rights to matrimonial property during and upon the termination of a marriage, and it affirms that parties to a marriage are entitled to equal rights at the time of marriage, during the marriage, and at its dissolution.

In April 2014 the National Assembly adopted the Marriage Act, including provisions to strengthen property rights for wives. The act retains a man’s right to enter into multiple marriages and does not require consultation with or the consent of the existing spouse(s). The act contains a provision protecting the entitlements and interest of the first wife in matrimonial property. The bill received presidential assent and went into force during the year. A separate Matrimonial Property Act went into force in 2013 under which ownership of jointly held property depends upon how much each spouse can prove he or she contributed monetarily to that property. Many women’s rights groups and female members of Parliament asserted the act was discriminatory and regressive.

Children

Birth Registration: A child derives citizenship from the citizenship of the parents, and either parent may transmit citizenship. Birth registration is compulsory. Parents in rural areas, where tradition considered community elders rather than official entities the legitimate authorities in family matters, often did not register births. Observers estimated that parents officially registered 60 percent of births. Lack of official birth certificates resulted in discrimination in delivery of public services.

The law requires citizens to obtain identity cards when they turn 18 years of age; it requires identity cards to obtain public services and to vote. Since identity card applications require tracing lineage through male relatives, children born out of wedlock and children born of married mothers who retained their maiden names had difficulty obtaining identity cards unless they could provide the identity documents of a male relative.

Education: Education is tuition-free and compulsory through age 13. Authorities limited secondary enrollment to students who obtained high scores on standardized primary examinations. Authorities did not enforce the mandatory attendance law uniformly.

According to a 2014 study by NGO Plan Kenya, 47.6 percent of girls and 52.4 percent of boys enrolled in secondary education.

While the law provides pregnant girls the right to continue their education until after giving birth, NGOs reported that schools often did not respect this right. Schoolmasters sometimes expelled pregnant girls or transferred them to other schools.

In 2014 the NGO The Cradle estimated that 41 percent of children between ages 10 and 14 worked rather than attend school. According to government data, university enrollment increased by 23 percent between 2014 and year's end, but the proportion of women enrolled in university remained relatively constant at 40 percent of total enrollment.

Child Abuse: Violence against children, particularly in poor and rural communities, was common, and child abuse, including sexual abuse, occurred frequently. A 2010 government survey found that 32 percent of female

respondents and 18 percent of male respondents between ages 18 and 24 had experienced sexual violence before age 18. Perpetrators of physical, sexual, and emotional violence were rarely strangers to the child. Romantic partners of students were the most common perpetrators of sexual violence, followed by neighbors, while parents and teachers were the most common perpetrators of physical and emotional violence. According to NGOs, lack of awareness of how to report child abuse and aversion to involvement in a lengthy legal process were major obstacles to doctors, teachers, and other nonfamily figures reporting child abuse. The Protection against Domestic Violence Act enacted in May criminalizes several forms of violence that affect children, including early and forced marriage, FGM/C, incest, and physical, verbal, and sexual abuse.

The minimum sentence for conviction of defilement is life imprisonment if the victim is less than 11 years old, 20 years in prison if the victim is between ages 11 and 16, and 10 years if the child is age 16 or age 17. Newspapers contained frequent reports of molestation or rape of children by relatives, neighbors, teachers, police, and clergy.

The government banned corporal punishment in schools, but there were reports corporal punishment occurred.

Early and Forced Marriage: The Protection against Domestic Violence Act criminalizes early and forced marriage. The media frequently highlighted the problem of early and forced marriage, which some ethnic groups commonly practiced. In 2014 the UN Children's Fund (UNICEF) released a study reporting that 6 percent of children were married by age 15, and 26 percent by age 18. Regionally, Kilifi town had the highest prevalence of child marriage at 47.4 percent, followed by Homa Bay at 38 percent, Kwale at 37.9 percent, Bondo at 29.5 percent, and Tharaka at 25.3 percent. There was a strong correlation between poverty and early and forced marriage. A report by the UN Population Fund indicated that early and forced marriage increased during conflicts or after natural disasters because families sought to benefit economically from or offer alternative financial security for young daughters. In 2014 the National Assembly passed a marriage act that prohibits engagement, betrothal, or marriage by or to any person less than age 18 and voids marriages that violate these prohibitions. Under the constitution, however, the qadi courts retained jurisdiction over Muslim marriage and family law.

Female Genital Mutilation/Cutting: See information for girls under 18 in women's section above.

Sexual Exploitation of Children: Children were sexually exploited and victims of trafficking. The law criminalizes sexual exploitation of children, including prohibiting procurement of a girl under age 18 for unlawful sexual relations. The law also prohibits domestic and international trafficking, or the recruitment, harboring, transportation, transfer, or receipt of children up to the age of 18 for the production of pornography or for pornographic performances. Provisions apply equally for girls and boys. The Sexual Offenses Act has specific sections on child trafficking, child sex tourism, child prostitution, and child pornography.

The prostitution of children under age 18 remained a problem due to poverty, lack of law enforcement, internal displacement, and foreign and domestic tourists seeking sex with underage girls and boys. Political leaders expressed concern that minors were leaving school and being lured into prostitution to address their basic needs. According to the The Cradle, child prostitution was prevalent in Nairobi, particularly in informal settlements, and in Kisumu, Eldoret, Nyeri, and the coastal areas. The same source indicated that criminals trafficked a significant number of children to urban and coastal areas from the north and west to engage in prostitution. UNICEF, the Ministry of Tourism and Wildlife, the World Tourism Organization, and NGOs continued to work with the Kenya Association of Hotelkeepers and Caterers to increase their awareness of child prostitution and sex tourism. The association encouraged hospitality sector businesses to adopt and implement the code of conduct developed by the End Child Prostitution and Child Pornography and Trafficking of Children for Sexual Purposes NGO. The Tourism Regulatory Authority oversees hotels, rental villas, and cottages to monitor adherence to the code of conduct.

Child Soldiers: Although there were no reports the government recruited child soldiers, there were reports that the al-Shabaab terrorist group recruited children.

Displaced Children: Poverty and the spread of HIV/AIDS continued to intensify the problem of child homelessness. Street children faced harassment and physical and sexual abuse from police and others and within the juvenile justice system. The government operated programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and medical care to street children that the commercial sex industry abused and exploited.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance

at travel.state.gov/content/childabduction/en/legal/compliance.html and country-specific information at travel.state.gov/content/childabduction/english/country/kenya.html.

Anti-Semitism

The Jewish community was very small, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services. The government did not effectively enforce these provisions. The constitution provides legal safeguards for the representation of persons with disabilities in legislative and appointive bodies. The law provides that persons with disabilities should have access to public buildings, and some buildings in major cities had wheelchair ramps and modified elevators and restrooms. The government did not enforce the law, however, and new construction often did not include accommodations for persons with disabilities. Government buildings in rural areas generally were not accessible for persons with disabilities. According to NGOs, police stations remained largely inaccessible to those with mobility disabilities.

In a 2014 report to the UN Human Rights Council, the KNCHR estimated there were seven million persons with some form of disability in the country. There was limited societal awareness of persons with disabilities and significant stigma attached to disability. Learning and other disabilities not readily apparent were not widely recognized. NGOs reported that persons with disabilities had limited opportunities to obtain education and job training at all levels due to lack of accessibility of facilities and resistance on the part of school officials and parents to devoting resources to students with disabilities. The KNCHR estimated that 67 percent of persons with disabilities had a primary education, 19 percent attained secondary education, and 2 percent reached university level, while 7 percent of persons with disabilities reported that authorities denied them all access to

education because of their disability.

According to a 2014 survey by the NGO Handicap International on the rights of persons with disabilities in the country, 85 percent of persons with disabilities experienced verbal abuse related to their disability and 17 percent experienced gender-based violence. Of those who reported abuse, 47 percent neither reported the incident to police or other authorities nor sought medical help or counseling. They cited fear of reprisal or of being misunderstood as their reasons. Of those who reported abuse to some authority, the majority reported the incident to community elders rather than police.

Authorities received reports of killings of persons with disabilities as well as torture and abuse, and the government took action in some cases. According to a 2014 report by *The Standard* newspaper, parents of children with disabilities living in pastoralist communities often tied them up during the day or abandoned them.

Persons with disabilities faced significant barriers to accessing health care. They had difficulty obtaining HIV testing and contraceptive services due to the perception they should not engage in sexual activity. According to Handicap International, 36 percent of persons with disabilities reported facing difficulties in accessing health services; cost, distance to a health facility, and physical barriers were the main reasons cited.

Few facilities provided interpreters or other accommodations to persons with hearing disabilities. The government assigned each region a sign language interpreter for court proceedings. Nevertheless, authorities often delayed or adjourned cases involving persons who had hearing disabilities due to a lack of standby interpreters, according to an official with the NGO Deaf Outreach Program. According to the KNCHR, 10 secondary schools in the country could accommodate the needs of persons with hearing limitations.

Under the new government structure, the former Ministry of Gender, Children, and Social Development was subsumed into other ministries, and the Ministry for Devolution and Planning became the lead ministry for implementation of the law to protect persons with disabilities. The quasi-independent but government-funded parastatal National Council for Persons with Disabilities assisted the ministry. Neither entity received sufficient resources to address effectively problems related to persons with disabilities. The Association for the Physically Disabled of Kenya carried out advocacy campaigns on behalf of persons with disabilities, distributed wheelchairs, and worked with public institutions to promote the rights of persons

with disabilities. The KNCHR noted that awareness of the rights of persons with disabilities increased as a result in some counties, but it faulted the government for not ensuring equal protection of the rights of persons with disabilities throughout the country.

Nominated and elected parliamentarians with disabilities formed the Kenya Disability Parliamentary Caucus in 2013 and issued a strategy statement focusing on improving economic empowerment and physical access for persons with disabilities as well as integrating disability rights into county government policies.

National/Racial/Ethnic Minorities

There are more than 40 ethnic groups in the country; none holds a majority. The 2009 census identified eight major ethnic communities: Kikuyu, 6.6 million; Luhya, 5.3 million; Kalenjin, five million; Luo, four million; Kamba, 3.9 million; Kenyan Somali, 2.3 million; Kisii, 2.2 million; and Mijikenda, 1.9 million. The Kikuyu and related groups dominated much of private commerce and industry and often purchased land outside their traditional home areas, which sometimes resulted in fierce resentment from other ethnic groups, especially in the coastal and Rift Valley areas.

Many factors contributed to interethnic conflicts: long-standing grievances regarding land tenure policies and competition for scarce agricultural land; the proliferation of illegal guns; cattle rustling; the growth of a modern warrior/bandit culture (distinct from traditional culture); ineffective local political leadership; diminished economic prospects for groups affected by regional droughts; political rivalries; and the inability of security forces to quell violence. Conflict between landowners and squatters was particularly severe in the Rift Valley and the coastal regions, while competition for water and pasture was especially serious in the north and northeast.

There was frequent conflict, including banditry, fights over land, and cattle rustling, among the Somali, Turkana, Gabbra, Borana, Samburu, Rendille, and Pokot ethnic groups in arid northern, eastern, and Rift Valley areas that at times resulted in deaths. For example, intercommunal conflict between Pokot and Turkana regarding cattle raids killed 76 individuals during four days in May. Violence between the Gare and Degodia clans continued in Mandera and Wajir counties. In March broadcaster KTN reported several deaths in violence between the two clans (see section 2.d.). Intercommunal and resource-based violence also occurred in Baringo, Merua, Marsabit, and Wajir counties.

Ethnic differences also caused a number of discriminatory employment practices (see section 7.d.).

Disputes over county borders were also a source of ethnic tensions. For example, the borders between Wajir and Marsabit counties were the subject of clashes in June. In some cases, county governments took steps to prevent cross-county ethnic violence. For example, in August county governments in Kwale and Taita Taveta counties held talks brokered by the National Cohesion and Integration Commission to resolve a boundary dispute peacefully. The Kenya Red Cross reported in August that interclan clashes between the Degodia and Ajuran along the border of Eldas and Wajir North subcounties left 15 individuals killed and nine injured.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution does not explicitly protect LGBTI persons from discrimination based on sexual orientation or gender identity. The penal code criminalizes “carnal knowledge against the order of nature,” which is interpreted to prohibit consensual same-sex sexual activity, and specifies a maximum penalty of 14 years’ imprisonment if convicted. A separate statute specifically criminalizes sex between men and specifies a maximum penalty of 21 years’ imprisonment if convicted. Police detained persons under these laws, particularly persons suspected of prostitution, but released them shortly afterward. Statistics presented in the National Assembly in March 2014 indicated that police opened files on 595 “unnatural offenses” cases since 2010, including 49 in 2014. Human rights organizations contended that these statistics conflated cases of consensual same-sex sexual activity with nonconsensual sexual activity as well as with cases of bestiality. According to a 2014 report issued by the Gay and Lesbian Coalition of Kenya and the National Gay and Lesbian Human Rights Commission, in 2012-14 there were eight prosecutions of gay men on indecency charges.

LGBTI organizations reported police more frequently used public order laws (for example, disturbing the peace) than same-sex legislation to arrest LGBTI individuals. Police frequently harassed, intimidated, or physically abused LGBTI individuals in custody.

Authorities permitted LGBTI advocacy organizations to register and conduct activities. There were reports, however, that some organizations registered under modified platforms to avoid denial of registration by the government.

Violence and discrimination against LGBTI individuals was widespread. According to a 2014 report by journalist Denis Nzioka, LGBTI individuals were especially vulnerable to blackmail and rape by police officers and individuals who used LGBTI websites to locate victims. Human rights and LGBTI rights organizations noted victims were extremely reluctant to report abuse or seek redress.

According to the joint report of Human Rights Watch and the NGO Persons Marginalized and Aggrieved of Kenya, *The Issue is Violence: Attacks on LGBT People on Kenya's Coast*, police arrested two men in Kwale County on February 18 and charged them with “unnatural offenses” and trafficking in “obscene material.” Police searched their homes without a warrant and took them to Kwale District Court, where the prosecutor received a court order for the men to undergo anal “medical examinations.” Authorities released one man on bond after two months at Kwale Medium Prison, while authorities released the other after four months. The case against both continued at year’s end.

In April the High Court ruled in favor of the NGLHRC in a case challenging the government’s refusal to register LGBTI advocacy and welfare organizations. The NGLHRC sought court intervention after unsuccessfully trying since 2012 to register under the Nongovernmental Organizations Coordination Act. The court ruled that refusing to register the organization was an infringement on constitutionally protected freedom of association. The government filed an appeal against the ruling; the court had not taken action on the appeal as of year’s end.

In conjunction with the July visit of a high-level foreign official, there was increased public discourse on the issue of LGBTI rights in the country. Religious and political organizations, including the antigay parliamentary caucus formed in 2014, held several demonstrations in early July protesting against any attempt to legalize same sex marriage.

HIV and AIDS Social Stigma

The government and private organizations supported a network of more than 8,000 counseling and testing centers providing free HIV/AIDS diagnosis. Diagnosis of other sexually transmitted infections was available through hospitals and clinics throughout the country. Because of social stigma, many citizens avoided testing for HIV/AIDS. A 2014 study conducted in Kisumu indicated that 57 percent of

HIV-positive adolescents eventually discontinued follow-up treatment, in part due to social stigma and fear of social stigma.

The government promoted programs to reduce stigmatization of those with HIV and AIDS and to encourage HIV and AIDS testing, counseling, and the prevention of mother-to-child transmission. According to its website, the first lady's Beyond Zero Campaign to stop new HIV infections led to the opening of 32 mobile clinics across the country.

Other Societal Violence or Discrimination

Mob violence and vigilante action were common and resulted in numerous deaths. Many incidents of mob violence in informal settlements went unreported. Many victims were persons suspected of criminal activities, including theft, robbery, killings, cattle rustling, and membership in criminal or terrorist gangs.

Local police warnings against mob killings of suspected criminals were ineffective or ignored. According to *Standard Media* on August 4, a mob killed a National Intelligence Service officer in Nairobi who was mistaken for a thief when he drew his pistol. A colleague escaped with serious injuries. Human rights observers attributed widespread vigilante violence to a lack of public confidence in police and the criminal justice system. The social acceptability of mob violence also provided cover for acts of personal vengeance. Police frequently failed to act to stop mob violence.

On January 16, according to *The Star* newspaper, an angry mob killed a man who allegedly killed his nephew in Elgeyo-Marakwet County. According to *The Star*, a mob killed two University of Nairobi students on June 21 because of an alleged laptop computer theft. In September, according to *The Standard* newspaper, police rescued a man in Machakos County from an angry mob moments before it would have killed him.

Mobs also attacked persons suspected of witchcraft or participation in ritual killings, particularly in Kisii, Nyanza, and other western counties. Although local officials spoke out against witch burning and increased police patrols to discourage the practice, human rights NGOs noted public reluctance to report such cases due to fear of retribution.

Societal discrimination continued against persons with albinism, many of whom left their home villages due to fear of abuse and moved to urban areas where they

believed they were safer. According to disability rights advocates, there were 12 attacks on persons with albinism documented during the year, although advocates stated many attacks and killings were unreported. Individuals attacked persons with albinism for their body parts that some believed would confer magical powers and that could be sold for significant sums. On June 13, albinos marched in Nairobi to mark International Albinism Awareness Day. On September 14, according to newspaper *The Daily Nation*, attackers tried to cut body parts off a man with albinism to sell for witchcraft.

The National Council of Persons with Disabilities and the Kenya Albino Child Support Program, in partnership with the government, continued an awareness campaign to combat discrimination. In 2013 Isaac Mwaura became the first person with albinism to serve in Parliament when his party nominated him for a seat in the National Assembly designated for marginalized persons. Employment discrimination against persons with albinism also occurred (see section 7.d.).

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers, including those in export processing zones (EPZs), to form and join unions of their choice and to bargain collectively. Any seven or more workers in an enterprise have the right to form a union by registering with the trade union registrar. If the registrar denies registration, a union may appeal to the courts. The law does not explicitly prohibit members of the armed forces, prisons service, and police from forming or joining unions.

The law permits the government to deny workers the right to strike under certain conditions. For example, the government prohibits members of the military, police, prison guards, and the National Youth Service from striking. Authorities allowed other civil servants to strike following a seven-day notice period. The Ministry of Labor, Social Security, and Services typically referred disputes to mediation, fact-finding, or binding arbitration at the Employment and Labor Relations Court, a body of up to 12 judges appointed by the Judicial Services Commission, which has exclusive jurisdiction to handle employment and labor matters and which operates in urban areas, including Nairobi, Mombasa, Nyeri, Nakuru, Kisumu, and Kericho. During mediation any strike is illegal, thus removing legal prohibitions on employer retaliation against strikers. Additionally, a Ministry of Labor, Social Security, and Services referral of a dispute to the conciliation process nullifies the right to strike.

By law authorities do not allow strikes by workers who provide essential services, defined as “a service the interruption of which would probably endanger the life of a person or health of the population.” Any trade dispute in a service listed as essential or declared an essential service may be adjudicated by the Employment and Labor Relations Court (previously the Industrial Court, renamed in January).

The law permits workers in collective bargaining disputes to strike if they have exhausted formal conciliation procedures and given seven days’ notice to both the government and the employer. Conciliation is not compulsory in individual employment matters. Security forces may not bargain collectively but have an internal board that reviews salaries. Informal workers may establish associations, or even unions, to negotiate wages and conditions matching the government’s minimum wage guidelines as well as to advocate for better working conditions and representation in the Employment and Labor Relations Court. The law allows employers in some industries to dismiss workers regardless of the provisions of their collective bargaining agreements. The bill of rights in the constitution allows trade unions to undertake their activities without government interference, and the government generally respected this right.

The law prohibits antiunion discrimination and provides for reinstatement of workers dismissed for union activity. The Employment and Labor Relations Court can order reinstatement and damages in the form of back pay for employees wrongfully dismissed for union activities. Labor laws apply to all groups of workers.

Due to human and material resource constraints, the government did not always effectively enforce labor laws. The government encouraged a strengthened labor dispute system, but it did not enforce the decisions of the Employment and Labor Relations Court consistently. Many employers did not comply with reinstatement orders, and some workers accepted payment in lieu of reinstatement. In several cases, employers successfully appealed the Employment and Labor Relations Court’s decisions to the High Court. The enforcement mechanisms of the Employment and Labor Relations Court remained weak, and its case backlog raised concerns regarding the efficacy of the court.

The Employment and Labor Relations Court received many cases arising from the implementation of new labor laws. The parties filed the majority of cases directly without referral to the Ministry of Labor, Social Security, and Services for conciliation. There were 3,540 cases filed with the Industrial Court during 2014,

up from 2,072 in 2013. In 2014 the 12 judges on the Employment and Labor Relations Court announced a total of 1,800 awards and rulings. The government established the court to provide for quick resolution of labor disputes, but backlog cases dated to 2007.

The chief justice designated all county courts presided over by senior resident magistrates and higher-ranking judges, as special courts to hear employment and labor cases. Providing adequate facilities outside of Nairobi was challenging, but observers cited the ability of workers to submit cases to the Employment and Labor Relations Court throughout the country as a positive step.

The government generally respected freedom of association and the right to bargain collectively, although enforcement was inconsistent. The government expressed its support for union rights mandated in the constitution.

Migrant workers often lacked formal organization and consequently missed the benefits of collective bargaining. Similarly, domestic workers, persons in prostitution, and others who operated in private spaces were vulnerable to exclusion from legal protections.

NGOs and trade unionists reported an increase in the elimination of permanent positions in favor of casual or contract labor, especially in the EPZs, the Port of Mombasa, and in the agricultural and manufacturing sectors. In many cases cited, employers staffed permanent jobs with rotating contract workers. This practice occurred at the management level as well, where employers hired individuals as management trainees and kept them in these positions for the maximum permitted period of three years. Instead of converting such trainees to permanent staff, employers replaced them with new trainees at the end of the three years. During the year, the ministry reviewed widespread misuse of term contract employment.

Workers went on strike due to nonimplementation of collective bargaining agreements, resistance by doctors and other health-care workers to having their salaries paid by county governments rather than the national government, demand for revision of wages, and other terms and conditions of service.

On September 4, public school teachers went on strike to force the government to respect an August 24 Supreme Court appellate decision granting them a 50 to 60 percent pay increase. The teachers' initially went on strike in January, but the unions and the government agreed to let the Employer and Labor Relations court decide the teachers' demand for a 200 percent pay increase that the unions stated

stemmed from a 1997 agreement with the teachers' unions. The Employment and Labor Relations Court awarded the pay increase on June 30, but the government appealed the court's decision. On September 25, the Employment and Labor Relations Court ordered the teachers to suspend their strike and ordered the teachers' unions and the Ministry of Labor to form a committee and negotiate a solution within 90 days. Teachers returned to the classroom on October 5 without receiving their September pay. The teachers' union claimed the situation was not resolved but allowed students to return to school to finish the academic year and sit for their national exams in October.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor, including by children. The country made moderate advances during the year to prevent or eliminate forced labor. The government continued to implement the National Safety Net Program for Results, a 2013-18 project seeking to establish an effective national safety net program for poor and vulnerable households, and the Decent Work Country Program, a 2013-15 project devoted to advancing economic opportunities.

The Chief's Authority Act provides that able-bodied men between ages 18 and 50 may be required to perform any work or service in connection with the conservation of natural resources for up to 60 days in any year. Additionally, certain provisions, including the penal code and the Public Order Act, impose compulsory prison labor. Resources, inspections, and remediation were not adequate to prevent forced labor, and penalties were not sufficient to deter violations. Penalties ranged from 50,000 to 200,000 shillings (\$489 to \$1,960) or three to 12 months' imprisonment. Violations included debt bondage, trafficking of workers, and even family members compelled to work as domestic servants for family, friends of the family, or strangers.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution gives children legal protection from hazardous or exploitative labor. The law explicitly prohibits forced labor, trafficking, and other practices similar to slavery; child soldiering; prostitution; the use, procuring, or offering of a child for the production of pornography or for pornographic performances; and the

use by an adult for illegal activities (such as drug trafficking) of all children up to age 18. The law applies equally to girls and boys.

The law sets the minimum age for employment at 16 and the minimum age for hazardous work at 18. The law prohibits employment of a child (defined as a person under age 18) in any activity that constitutes a worst form of child labor or that would prevent children younger than age 16 from attending school. The law allows children ages 13 to 16 to engage in industrial undertakings when participating in apprenticeships. The law defines industrial undertakings to include work in mines, quarries, factories, construction, demolition, and transportation, which the list for children includes as hazardous work (see below).

The law provides for penalties for any person who employs, engages, or uses a child in an industrial undertaking in violation of the law. An individual convicted of violating the law is liable to a fine not exceeding 200,000 shillings (\$1,960), imprisonment for not more than one year, or both. The fines were generally enough to deter violations. Employment of children in the formal industrial wage sector in violation of the Employment Act was rare. Child labor in the informal sector was difficult to monitor and control.

The Ministry of Labor, Social Security, and Services has responsibility for enforcing child labor laws, but implementation remained problematic due to resource constraints. Alternatives, such as the International Labor Organization (ILO)-initiated Community Child Labor monitoring program helped provide additional resources to combat child labor. These monitoring communities complemented law enforcement efforts by identifying children who were working illegally, removing them from hazardous work conditions, and referring them to the appropriate service providers. The ministry, in collaboration with the ILO, the international donor community, and NGOs, completed a list of specific jobs considered hazardous that would constitute the worst forms of child labor and published the list in the *Kenya Gazette* in February 2014.

The government worked closely with the Central Organization of Trade Unions, the Federation of Kenyan Employers, and the ILO to eliminate child labor. The government continued to use its practical guide to labor inspection, a policy document developed by the Ministry of Labor. The National Steering Committee on the Elimination of Child Labor, which included the attorney general, eight ministries, representatives of child welfare organizations, other NGOs, unions, and employers, continued to operate and meet quarterly. An interministerial coordination committee on child labor is responsible for setting general policy.

Additionally, a network of organizations consisting of government ministry departments, social partners, and NGOs working on child labor met regularly under the supervision of the Ministry of Labor, Social Security, and Services' Child Labor Division. This collaboration facilitated greater coordination of efforts to combat child labor and placed children in schools, vocational training institutions, and apprenticeships. Partners also provided support to schools for income-generating activities to help keep children from poor families in school.

Child labor awareness was also included in the primary school curriculum and in different government policies, such as the Alternative Education Policy, again with ILO support. The ILO also promoted child participation through its program, Support Children's Rights through Education Arts and Media. In this program, experts trained teachers to identify and reduce child labor, with children's rights clubs formed in schools implementing the project. The success of the program depended on children being actively involved in identifying and reporting cases of child labor within their communities.

According to the 2009 National Census, almost three million children between ages five and 14 (32.5 percent) engaged in child labor. Many children worked on family plots or in family units on tea, coffee, sugar, sisal, tobacco, and rice plantations, as well as in the production of miraa (khat). Children worked in mining, including in abandoned gold mines and small quarries. Children also worked in the fishing industry. In urban areas, businesses employed children in hawking, scavenging, carrying loads, fetching and selling water, and selling food. Children often worked long hours as domestic servants in private homes for little or no pay, and there were reports of physical and sexual abuse of child domestic servants. Parents sometimes initiated forced or compulsory labor by children, such as agricultural labor, prostitution, and domestic servitude.

Most of the trafficking of children within the country appeared related to domestic labor, with migrant children trafficked from rural to urban areas.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination in employment and occupation based on grounds of race, color, sex, age, religion, political or other opinion, nationality, ethnic or social origin, disability, language, pregnancy, mental status, or HIV status. The

law did not prohibit discrimination based on sexual orientation or gender identity. The government did not effectively enforce the law.

Gender-based discrimination in employment and occupation occurred, and the law does not mandate nondiscrimination based on gender in hiring. The average monthly income of women was approximately two-thirds that of men. Women had difficulty working into nontraditional fields, had slower promotions, and were more likely to be dismissed. According to a World Bank report, both men and women experienced sexual harassment in job recruitment, but women more commonly reported it. Women who tried to establish their own informal businesses were still subjected to discrimination and harassment. One study of women street vendors in Nairobi found harassment was the main mode of interaction between street vendors and authorities. The study noted that demands for bribes by police amounting to 3 to 8 percent of a vendor's income as well as sexual abuse were common.

In early 2014 the Public Service Commission released a report indicating that, as of June 2013, half of civil servants belonged to one of the three largest ethnic groups: Kikuyu (22.3 percent), Kalenjin (15.3 percent), and Luhya (11.3 percent). The ethnic groups with the lowest representation were the Hawiyah, a clan of Somali ethnicity (with one technician employed by the government); the South Asian Community (104); Sakuye (76); Murulle (72); and El Molo (27). Political appointments also followed the pattern in the civil service, with the Kikuyu, Kalenjin, and Luhya dominant.

Devolution of fiscal and administrative responsibility to county governments led to an increase in interethnic conflict in some areas. In an audit of hiring practices released in 2014, the National Cohesion and Integration Commission accused many county governors of appointing and employing disproportionate numbers of the dominant tribe in their county. According to the commission, 15 of 47 counties failed to include a single person from a minority tribe either on the county's public service board or as county executive committee members. For example, all 10 of West Pokot's committee members were Pokots. Some counties, notably Nairobi City County, were notable for apportioning roles inclusively. Observers also noted patterns of preferential hiring during police recruitment exercises (see section 1.d.).

In both private business and in the public sector, members of nearly all ethnic groups commonly discriminated in favor of other members of the same group. Some neighborhoods, particularly in informal settlement areas of the capital, tended to ethnic segregation, although interethnic marriage was common in urban

areas.

Due to societal discrimination, there were limited employment opportunities for persons with albinism.

Discrimination against migrant workers also occurred. Migrant workers enjoy the same legal protections with regard to wages and working conditions as citizens.

e. Acceptable Conditions of Work

Regulation of wages is part of the Labor Institutions Act, and the government established basic minimum wages by occupation and location, setting minimum standards for monthly, daily, and hourly work in each category. At the Labor Day celebrations, the president announced a 12 percent increase in the minimum wage. The minimum wage for a general laborer was 10,954 shillings (\$107) per month. The average minimum wage for skilled workers was 17,404 shillings (\$170) per month. The government increased the lowest agricultural minimum wage for unskilled employees to 6,780 shillings (\$66) per month, excluding housing allowance. Agricultural workers were underpaid compared with other sectors. The ministry established a wages order for the horticulture industry to address problems affecting the floriculture sector.

In many cases the increasing cost of living often far outpaced wage growth. There was no official estimate for the poverty income level.

The law provides for equal pay for equal work.

The constitution establishes the Salaries and Remuneration Commission to set and review regularly the remuneration and benefits of all state officers and to advise the national and county governments on the remuneration and benefits of all other public officers. The law also tasks the commission with assuring that the total public compensation bill is fiscally sustainable, promotes retention and recruitment, recognizes productivity and performance, and is transparent and fair.

The law limits the normal workweek to 52 hours (60 hours for night workers); some categories of workers had lower limits. The law specifically excludes agricultural workers from such limitations. The law entitles an employee in the nonagricultural sector to one rest day per week and 21 days of combined annual and sick leave. The law also requires that total hours worked (regular time plus

overtime) in any two-week period not exceed 120 hours (144 hours for night workers) and provides premium pay for overtime.

Authorities also reported workweek and overtime violations. Workers in some enterprises, particularly in the EPZs and those in road construction, claimed employers forced them to work extra hours without overtime pay to meet production targets. Hotel industry workers were usually paid the minimum statutory wage, but employees worked long hours without compensation. Additionally, employers often did not provide nighttime transport, leaving workers vulnerable to assault, robbery, and sexual harassment.

The law details environmental, health, and safety standards. Fines generally were insufficient to deter unsafe practices.

The Labor Ministry's Directorate of Occupational Health and Safety Services has the authority to inspect factories and work sites, except in the EPZs, which the law excludes from the Factory Act's provisions. The directorate's health and safety inspectors can issue notices against employers for practices or activities that involve a risk of serious personal injury. Employers may appeal such notices to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. The law stipulates that factories employing 20 or more persons have an internal health and safety committee with representation from workers.

The law intends required labor inspections to prevent labor disputes, accidents, and conflicts and to protect workers from occupational hazards and disease by ensuring compliance with labor laws. Low salaries and the lack of vehicles, fuel, and other resources made it very difficult for labor inspectors to do their work effectively and left them vulnerable to bribes and other forms of corruption. Inspection forms do not include persons with disabilities, and during the year the ministry addressed how to capture data affecting such workers.

The Ministry of Labor, Social Security, and Services (MLSSS) employed 95 labor officers. Insufficient resource allocation caused a number of labor inspection positions to remain vacant, which resulted in several county labor offices having one or no labor officer. The government did not provide social protections for workers employed in the sector, but informal workers organized into associations, cooperatives, and, in some cases, unions.

Workers, including foreigners and immigrants, have the legal right to remove themselves from situations that endanger health or safety without jeopardy to their

employment. The MLSSS did not effectively enforce these regulations, and workers were reluctant to remove themselves from working conditions that endangered their health or safety due to the risk of losing their jobs.

Inspectors routinely found violations of health and safety conditions in the EPZs and other sectors, such as small horticultural producers. According to the government, many of the largest factories instituted health and safety committees by year's end. The Kenya Federation of Employers provided training and auditing of workplaces for health and safety practices.

According to a June report, the UN Economic Commission for Africa estimated the country's informal sector employment at 77.9 percent, increasing to more than 80 percent among women. According to the 2015 Kenya Economic Survey, the informal sector employed 11.8 million persons in 2014, versus 2.4 million in the formal sector.