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DETENTION
PROJECT



KENYA: SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

ISSUES RELATED TO THE DETENTION OF MIGRANT, REFUGEE, AND ASYLUM-SEEKING WOMEN AND CHILDREN

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ABOUT THE SUBMITTING ORGANISATIONS

GLOBAL DETENTION PROJECT (GDP)

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

REFUGEE CONSORTIUM KENYA (RCK)

The Refugee Consortium of Kenya (RCK) is a Kenyan non-governmental organization established in 1998 that works to protect and promote the rights, well-being, voice, and dignity of refugees, asylum seekers, internally displaced persons, and host communities. Through integrated programming in protection and access to justice, women and girls' empowerment, livelihoods and economic inclusion, and peace, social justice and mental health, RCK provides legal aid, psychosocial support, advocacy, research, and community-led initiatives in Dadaab, Kakuma/Kalobeyi, urban settings, and host counties. RCK's work is grounded in international and regional human rights frameworks, including CEDAW and the Maputo Protocol, with a particular focus on advancing gender equality, preventing and responding to gender-based violence, and ensuring the meaningful participation of refugee and displaced women and girls in decision-making.

KENYA: ISSUES RELATED TO THE DETENTION OF MIGRANT, REFUGEE, AND ASYLUM-SEEKING WOMEN AND CHILDREN

JOINT SUBMISSION TO THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

STATE PARTY REPORT

93RD SESSION, 5 – 30 OCTOBER 2026

1. INTRODUCTION

- 1.1 The [Global Detention Project \(GDP\)](#) and the [Refugee Consortium of Kenya \(RCK\)](#) welcome the opportunity to provide this report on Kenya to the Committee on the Elimination of Discrimination against Women in the context of its review of the state party's ninth periodic report during the Committee's upcoming 93rd Session
- 1.2 This submission focusses on Kenya's immigration enforcement policies and practices, with a particular focus on the detention and deportation of migrant, refugee, and asylum-seeking women, including trafficking victims.
- 1.3 This submission is made keeping in mind the Committee's **General Recommendation No. 32** concerning the gender-related dimensions of refugee status, asylum, nationality, and statelessness of women. In particular, we recall the Committee's recognition that pregnant and nursing women and women asylum seekers "*should not be detained,*" and that "*failure to address the specific needs of women in immigration detention and ensure the respectful treatment of detained women asylum seekers could constitute discrimination within the meaning of the Convention.*"

2. CONTEXT

- 2.1 Kenya has historically been a source, transit, and destination country for migrants, refugees, and asylum seekers owing to its relative economic stability and geographic location. Those arriving in the country include labour migrants from neighbouring countries, refugees and asylum seekers fleeing conflict and persecution, and individuals transiting towards other destinations in the region and beyond. Most migrants in transit are Ethiopians, Eritreans, and Somalis, travelling irregularly with smugglers and facing high risks of arrest, exploitation, and abuse.

- 2.2 The country is one of Africa’s largest refugee-hosting countries. As of June 2026, there were 857,065 refugees and asylum seekers in the country.¹
- 2.3 Kenya sits at the centre of three major mixed-migration corridors/transit routes:
- i) The Southern Route (Horn of Africa → Kenya → Tanzania → South Africa);
 - ii) The Eastern/Red Sea Route (Horn of Africa → Kenya → Yemen/Gulf); and
 - iii) A trafficking corridor linking refugee settings and urban areas to Uganda–South Sudan–Libya–Europe.
- 2.4 In recent years the state party has increasingly portrayed migrants, refugees, and asylum seekers as security threats rather than individuals in need of protection or assistance. The country’s 2025 Annual Report on the State of National Security explicitly stated:
- “Kenya serves both as a destination and a transit hub for both regular and illegal migrants from East and Central Africa, the Great Lakes and the Horn of Africa regions. Many of these aliens, fleeing conflict, violence, and persecution enter the country without proper documentation, creating significant security challenges.”²*
- 2.5 This is also reflected in the country’s legislation which treats irregular entry and stay as criminal offences (see: 3. Legislative Concerns). The criminalisation of all irregular entry coupled with limited identification mechanisms leaves vulnerable arrivals, such as asylum seekers and trafficking victims, facing automatic detention.
- 2.6 Irregular arrivals tend to be apprehended, charged for unlawful presence in the country, and detained in prisons and police stations awaiting deportation, as the country does not operate dedicated immigration detention facilities. Since 2024, Kenya has used approximately 50 prisons and police stations for holding migrants for criminal prosecution or for administrative reasons.³ These have largely been located in large urban areas such as Nairobi and Mombasa, as well as along the migrant transit route.

¹ UNHCR, “Operational Data Portal: Refugees and Asylum-Seekers in Kenya,” accessed 6 August 2026, <https://data.unhcr.org/en/country/ken>

² Republic of Kenya, “The Annual Report to Parliament on the State of National Security,” November 2025, <https://parliament.go.ke/sites/default/files/2025-11/2025%20Report%20on%20State%20of%20National%20Security.pdf>

³ Global Detention Project, “Kenya: Security Versus Protection?” 23 April 2026, <https://www.globaldetentionproject.org/kenya-security-versus-protection>

- 2.7 Between September 2024 and August 2025, 953 irregular migrants were apprehended—with Ethiopians accounting for 650 of these arrested, following by Somalis, Burundians, and Eritreans. The same period in 2023-2024 saw 1,498 arrests.⁴
- 2.8 Reflecting broader concerns regarding the securitisation of migration in Kenya, in December 2025 the country’s National Commission for Human Rights joined the human rights commissions of Ethiopia, Mozambique, and Zambia in calling for improved safety for migrants on the “southern route,” noting rising securitisation of migration and its effects in reconfiguring migration routes—with migrants making increasingly dangerous journeys. In particular, they voiced concern for the “grave protection risks migrants face in cross border irregular migration including exploitation, human trafficking, sexual and gender-based violence, arbitrary detention, violence and discrimination.”⁵

KEY CONCERNS

3. LEGISLATIVE CONCERNS

- 3.1 Two core pieces of legislation govern Kenya’s immigration detention and deportation practices: the [Kenya Citizenship and Immigration Act \(Cap. 170, 2011\)](#) and the [Refugees Act \(No. 10 of 2021\)](#).
- 3.2 The Kenya Citizenship and Immigration Act provides broad powers to detain foreign nationals. It treats irregular entry and stay, as well as the entry of anyone deemed inadmissible (which includes vague categories such as persons “declared inadmissible on grounds of national security or national interest”), as criminal offences. Article 53 provides fines of up to 500,000 KES (approximately 3,300 EUR) and/or imprisonment for up to three years. Article 49 authorises immigration and police officers to arrest individuals without a warrant if they have “reasonable cause to believe” that the individual has committed an offence under the Act or is unlawfully present in the country. Persons subject to deportation orders may also be detained in “police custody, prison, or immigration holding facility”—and they are to be removed within 90 days of the issuing of their deportation order (Article 43).
- 3.3 Some judicial oversight requirements are provided by Article 49. Article 49(1) notes that a detained foreign national must be brought before a judicial officer within 24 hours “or without delay afterward,” to review

⁴ Republic of Kenya, “The Annual Report to Parliament on the State of National Security,” November 2025, <https://parliament.go.ke/sites/default/files/2025-11/2025%20Report%20on%20State%20of%20National%20Security.pdf>

⁵ Kenya National Commission on Human Rights, “Joint Statement on Protection of Migrants Along the Southern Migration Route,” 18 December 2025, <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1241/Joint-statement-on-protection-of-migrants-along-the-Southern-migration-route>

their detention. Within seven days of this, further review of their continued detention is required, followed by further reviews at least once every thirty days thereafter (49(3)). There is no time limit set by legislation, meaning that migrants and refugees may technically remain detained indefinitely.

- 3.4 The Act does not include any gender-sensitive safeguards, such as protections for groups like pregnant and nursing women, survivors of gender-based violence, women asylum seekers, or children under the age of 18—thus leaving them vulnerable to arrest, detention, and deportation. Instead, the criminalisation of all irregular entry leaves everyone, including vulnerable arrivals, facing automatic detention.
- 3.5 Article 15 of Kenya’s 2021 Refugees Act provides for non-penalisation, stating that despite provisions in Kenya’s Citizenship and Immigration Act, “no proceedings shall be instituted” against persons who have applied for refugee status or had their application accepted. Article 20 also notes that “specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status.” Section IV of the Refugees (General) Regulations 2024, meanwhile, provides that asylum applicants and refugees are to be provided with identification documents.
- 3.6 Despite these statutory safeguards, however, refugees and asylum seekers, including women and children, continue to be arrested and detained in Kenya for reasons related to their immigration status. This includes those in possession of valid documents. Observers argue that this is due to a lack of awareness of relevant legal protections among arresting officers as well as due to efforts to extort refugees and asylum seekers.
- 3.7 Of additional concern, Article 19(2) of the Act includes provisions allowing exceptions to the principle of non-*refoulement* on the basis of public morality. However, the Committee has previously stated (General Recommendation No.32) that:
- “States parties have an obligation to ensure that no woman will be expelled or returned to another State where her life, physical integrity, liberty and security of person would be threatened, or where she would risk suffering serious forms of discrimination, including serious forms of gender-based persecution or gender-based violence.”*
- 3.8 We also remind the Committee of its recognition in its General Recommendation No. 32 that “As a general rule, pregnant women and nursing mothers, who both have special needs, should not be detained,” and that “States parties should recognize in their legislation that seeking asylum is not an unlawful act and that women asylum seekers should not be penalized (including by means of detention) for their illegal entry or

stay if they present themselves to the authorities without delay and show good cause for their illegal entry or stay.”

3.9 Recommendations: The GDP and RCK encourage the Committee to call on Kenya to:

- 3.9.a Amend the Kenya Citizenship and Immigration Act to explicitly include protections for pregnant and nursing women, asylum seekers, survivors of gender-based violence, mothers with children, and children under 18, to ensure that such groups cannot be arrested, detained, and deported as a result of their immigration status. Instead, they should be promptly identified and referred to appropriate protection and assistance services.
- 3.9.b Amend the Citizenship and Immigration Act to prevent automatic, and potentially indefinite, detention. Instead, detention must follow individualised assessments and only be used as a measure of last resort, where it is lawful, necessary, proportionate, and for the shortest period possible.
- 3.9.c Immediately amend the Refugees Act to ensure full compliance with the principle of non-*refoulement*, including by removing broad exceptions based on “public morality.”
- 3.9.d Ensure full implementation of the non-penalisation provision under the Refugees Act, including by ensuring that refugees and asylum seekers are not arrested, detained, or otherwise penalised solely on account of their immigration status or irregular entry or stay.

4. DETENTION CONDITIONS AND SAFEGUARDS

Use of Criminal Facilities

- 4.1 According to Article 43(2) of the Kenya Citizenship and Immigration Act, persons awaiting removal can be held “in police custody, prison or immigration holding facility.” Article 50 of the Kenya Citizenship and Immigration Act further provides for the establishment of “immigration holding facilities” at ports of entry and exit and “any other immigration operation areas.”
- 4.2 According to information received by RCK, since 2024 the state party has used approximately 50 different prisons and police stations for the detention of non-nationals, located largely in Nairobi and Mombasa, and along the key migration routes. Authorities in the country do not publicly release information regarding how many migrants, refugees, and asylum seekers are detained—or the location or duration of their detention—raising serious transparency and accountability concerns.
- 4.3 The use of criminal facilities for immigration detention raises particular concerns for migrant, refugee, and asylum-seeking women, who may be exposed to environments that are not designed to address their

specific protection needs. Women detained in such facilities may face heightened risks of gender-based violence; exploitation; inadequate access to appropriate healthcare, including sexual and reproductive health services; as well as a lack of privacy and dignity. Police stations, for example, are not designed for extended detention periods, and fail to provide adequate accommodation, services, and resources for prolonged detention.

- 4.4 Although Kenyan law requires men and women to be detained separately (Prison Act, Cap.90, Article 36), this provision can be difficult to ensure within police stations. Article 5 of the Prison Rules of 1963, meanwhile, notes that arrangements are to be made, “as far as practicable,” to segregate persons according to their legal status (Prisons Rules of 1963, Article 5).
- 4.5 Additionally, we draw the Committee’s attention to the Working Group on Arbitrary Detention’s Revised Deliberation No.5 on the Deprivation of Liberty of Migrants, which affirmed that the conditions of migrants’ detention must reflect “*the non-punitive character of the detention in the course of migration proceedings.*”⁶

Conditions and Services

- 4.6 Concerns regarding conditions within Kenya’s network of prisons are regularly documented. In 2024, the Kenya Human Rights Commission (KHRC) on Human Rights examined conditions inside 73 Kenyan prisons, and its audit revealed persistent challenges such as overcrowding, inadequate access to health care, and poor infrastructure. The Commission also stated its concerns regarding the ongoing practice of invasive and poor standard body searches, and noted that while many prisoners reported an adequate supply of hygiene items including menstrual products, these frequently were provided by visitors rather than prison authorities—prompting the Commission to urge authorities to themselves ensure the adequate supply of resources.⁷
- 4.7 The KHRC also noted concerns regarding the placement of nursing mothers alongside other prisoners, and that at times of overcrowding, baby cots are removed where mothers are detained with their babies, due to space constraints.
- 4.8 CEDAW General Recommendation No. 33: “[E]nsure that the conditions of administrative detention comply with relevant international standards for the protection of the rights of women deprived of their liberty.”

⁶ Working Group on Arbitrary Detention, “Revised Deliberation No. 5 on Deprivation of Liberty of Migrants,” February 2018, <https://www.refworld.org/legal/general/unwgad/2018/en/120413>

⁷ Kenya National Commission on Human Rights, “Deafening Silence: The State of Human Rights in Kenyan Prisons,” 2024, https://www.knchr.org/Portals/0/KNCHR%20HUMAN%20RIGHTS%20PRISON%20INSPECTION%20AUDIT%20REPORT_Final%20as%20at%20Nov%2010,%202024.pdf

Judicial Review

- 4.9 The Kenya Citizenship and Immigration Act provides a right to judicial review of detention orders. However, RCK notes that access to this remedy can be severely constrained in practice, often due to lawyers and civil society organisations not knowing where individuals are detained. This can prevent legal representatives from locating detainees and providing legal assistance within the short time frame provided, preventing detainees from participating effectively in the judicial reviews.
- 4.10 CEDAW General Recommendation No. 32: *“Ensure that all appropriate measures, including effective legal aid and procedures, are in place to enable women to challenge the legality of their detention; ensure regular reviews of such detention in the presence of the detainee.”*
- 4.11 **Recommendations:** In light of the above information, we encourage the Committee to issue the following recommendations:
- 4.11.a Ensure that the conditions in which migrant, refugee, and asylum-seeking women are detained meet national and international standards. The state party must take every effort to ensure that detainees have free and adequate access to basic necessities, including personal hygiene products.
 - 4.11.b Ensure that the detention of migrants, refugees, and asylum seekers for immigration-related reasons is non-punitive, including by immediately ceasing the practice of holding them in criminal justice facilities, including prisons and police stations.
 - 4.11.c Ensure that all migrants, refugees, and asylum seekers detained for immigration-related reasons have effective access to judicial review, including by requiring authorities to disclose the whereabouts of detainees and to provide timely access to documentation necessary to challenge the legality of their detention.