

ARTICLE 19

**#FreeToProtest in  
Kenya – make this  
your campaign!**



## About the **#FreeToProtest** campaign

- Throughout history, protests have played a powerful role in challenging injustice and oppression.
- Protests can drive positive social change, improve human rights protection, help protect civic space, encourage the development of an engaged and informed citizenry, and strengthen representative democracy and public participation.
- Protests enable citizens to share opinions, express grievances, expose governance flaws, and demand accountability and remedy from power holders.
- Protests are especially important for people whose interests are poorly represented or marginalised.

Yet governments around the world too often treat protests as an inconvenience to be controlled or a threat to be extinguished.

**ARTICLE 19's #FreeToProtest global campaign aims to increase respect for, and protection and fulfilment of, the right to protest in line with our [Principles on the protection of human rights in protests](#).**

**We are focusing the campaign on six countries initially: Brazil, Kenya, Mexico, Poland, Thailand, and Tunisia. For each country, we are publishing a research report under the series title *Protests under Threat*.**

## Why we're campaigning on the right to protest now

- Global justice – including social, economic, gender, environmental and climate justice – has never been more important.
- In every country citizens and civil society have positive ideas about what must change to bring about fairer and more sustainable and democratic societies and are striving to make their voices heard.
- But in many countries governments and their agencies don't recognise the positive potential of protest and are trying to close down the right to protest, including through the use of force and, from 2020 to early 2022, using Covid-19 pandemic restrictions to do this.

**"I find courage in the sense that someone got to stand for what is right. And that person is me."**

'Paul' (pseudonym), human rights defender, Nakuru County

Article 19 / Free to protest, Kenya



## What we want to achieve globally

- Globally, we want protesters and campaigners, especially members of groups who face discrimination and marginalisation, to be able to mobilise and exercise the right to protest without fear.
- We want the authorities in counties to respect and support the right to protest without negatively stereotyping and stigmatising protesters and campaigners.
- We want the media and the general public to understand and support the right to protest.

## Key issues around protest in Kenya

"[T]he police have become more high-handed. They use batons and tear gas. This has caused suffering for many people. I have asthma, and the tear gas really affected me. We have documented cases of women miscarrying ... Other people become unconscious. So, the trend has been to use excessive force, especially in poor neighbourhoods."

'Mary' (pseudonym), community justice centre coordinator, Nairobi County

- Social status and other overlapping identity factors increase the probability of the State and police empowering or oppressing protesters, with poor and marginalised groups and women experiencing particularly negative treatment.
  - The Kenyan authorities act especially swiftly against protests likely to embarrass the State or mobilise external pressure.
  - Negative media coverage has contributed to the stigmatisation and marginalisation of certain groups of protesters and reinforced unfavourable public perceptions.
- Kenya's new Constitution of 2010, with its recognition and protection of the right to peaceful protest, has brought about a wave of change in the country. Despite the challenges, protest in Kenya has achieved reforms and remains soundly based on rights-based constitutional commitments.
  - Despite the new Constitution and Kenya's ratification of international and regional treaties that safeguard the right to protest, the Kenyan State and police often use unnecessary or disproportionate force, including gender-based violence, as well as general obstruction and harassment, to discourage, prevent, or disperse protests.
  - Kenya's police do not uphold their obligation to protect the right to protest but instead are frequently responsible for unlawful conduct, including violent repression and unlawful arrests, with limited accountability to citizens when violations occur.



**"Over the years, we have managed to highlight important governance issues that needed national attention. Consequently, there have been policy changes and also corrections of maladministration."**

'Paul' (pseudonym), human rights defender, Nakuru County

- In Kenya, we want the government to implement the 2010 Constitution, to adhere to Kenya's international obligations, and to amend or repeal the Public Order Act to uphold and safeguard all citizens' right to protest.
- We want the government to abolish mandatory notification of protests, to create a safe and enabling environment for the right to protest, and to protect and facilitate spontaneous as well as planned protests.
- We want the government and police service to ensure full training for all police and law-enforcement officers in rights-based public order management, crowd facilitation, violence de-escalation, and the obligation to facilitate the right to protest, and to end practices of forcefully dispersing peaceful protesters and the use of excessive force at protests.
- We want the Independent Policing Oversight Authority (IPOA) and the Office of the Director of Public Prosecutions to investigate, discipline, and prosecute officers responsible for excessive and disproportionate use of force against protesters.
- We want the government and police service to cease the arrest and detention of individuals solely on the basis of their exercise of the right to freedom of assembly, and to deprive no one of their liberty except in accordance with legally established procedures and international law.
- We want the government to ensure adequate resourcing and political support for accountability mechanisms, particularly the IPOA.
- We want the judiciary to ensure justice for victims of police brutality, including

reparations, and uphold a progressive interpretation of the right to protest, drawing from the spirit and substance of the right in the Kenyan Constitution and in international and regional legal frameworks and guidelines.

- We want the government to follow through with its commitments at the international level (Universal Periodic Review process) and the regional level (African Commission on Human and Peoples' Rights) as prescribed in concluding observations and recommendations issued in the past.



**"I feel women protesters are targeted. I have been sexually harassed by male police officers, but if you stand up and they realise you know your rights, they step back."**

Jackie (pseudonym) human rights defender and gender activist, Nairobi County

# What you can do to get involved?

**READ** our country report, *Kenya: Restricting the right to be heard*, based on recent interviews, focus groups discussions, and media analysis

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