

COUNTRY REPORT

WHISTLEBLOWERS IN KENYA:

Overview of the Legal
Framework and Practices



P P L A A F



Kenya Country Report

Overview of the Legal Framework and Practices
July 2026

About the Platform to Protect Whistleblowers in Africa

The Platform to Protect Whistleblowers in Africa (PPLAAF) is a non-governmental organisation established in 2017 to protect whistleblowers, as well as to advocate and engage in strategic litigation on their behalf when their revelations deal with the general interests of African citizens.

PLATEFORME DE PROTECTION DES LANCEURS D'ALERTE (PPLAAF)

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01

INTRODUCTION & CONTEXT



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Despite long-standing legislative commitments to combating corruption, Kenya has yet to enact a dedicated whistleblower protection law, and individuals who disclose wrongdoing continue to face retaliation, legal harassment, and other forms of reprisal. This situation cannot be explained solely by the content of the legal framework. Rather, it reflects both the political and institutional environment in which whistleblowers operate and the persistent gap between the protections promised by law and those available in practice.

The **Anglo-Leasing scandal** of the early 2000s remains a defining moment in Kenya's history of anti-corruption and whistleblower protection. John Githongo, a senior official in the Kibaki administration, uncovered a network of fraudulent government contracts with shell companies estimated to have cost the state several hundred million dollars^[1]. After raising concerns internally and documenting his findings, Githongo received threats from senior government officials and was ultimately forced into exile in the United Kingdom^[2]. Despite ministerial resignations and formal investigations, no criminal convictions followed^[3]. The Anglo-Leasing case illustrates both the indispensable role whistleblowers play in exposing systemic corruption and the institutional failure to protect them or act decisively on their disclosures.

Then, the adoption of the 2010 Constitution marked a defining milestone in Kenya's governance landscape. It established a robust constitutional foundation for freedom of expression and freedom of the press, enshrined good governance, integrity, transparency and accountability as core national values binding on all public institutions and officeholders. Despite this foundation, corruption remains deeply embedded in Kenya's political and administrative systems, eroding public trust in institutions and compounding the risks faced by those who speak up.

Kenya has yet to establish a coherent and comprehensive whistleblower protection framework. Protections remain fragmented across multiple statutes, which has left whistleblowers without consistent protection against retaliation. A series of bills -- from the 2017 Whistleblower Protection Bill, through the Protected Disclosures Bill of 2019, to the Whistleblower Protection Bills of 2021, 2023, and most recently 2024 -- have all failed to progress through Parliament, with commentators citing a lack of political will among senior officials, whom a robust whistleblower law may expose to scrutiny, as key obstacles to enactment.

Furthermore, since the 2022 presidential election, the environment for whistleblowing has deteriorated. The Ruto administration has overseen a marked decline in media freedom, which is critical for whistleblower disclosures to reach the public. Protests in 2024 and 2025, triggered by proposed tax increases in successive Finance Bills, were met with lethal force against citizens and journalists^[4]. These events demonstrated the state's restrictions on both freedom of expression and independent media during periods of political pressure.

As such, Kenya presents a stark institutional paradox. The country has developed a substantial body of anti-corruption legislation and a constitutionally entrenched framework for freedom of expression, yet these foundations coexist with systematic retaliation against those who come forward, chronic under-enforcement of the protections that do exist, and a media environment subject to increasing pressure.

02

WHISTLEBLOWER LAWS AND POLICIES



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Kenya was one of the first countries to ratify the United Nations Convention Against Corruption (UNCAC) in 2003, and its provisions have been explicitly cited by Kenyan courts, notably in whistleblower Spencer Sankale's case^[5]. As head of finance at Maasai Mara University, Sankale uncovered evidence of suspicious financial transactions involving institutional funds and, following public disclosure through a 2019 investigative broadcast, additional whistleblowers from the institution came forward and all faced retaliation as a result of their disclosures^[6]. Sankale was dismissed, though he successfully challenged his termination in court, where he was awarded compensation equivalent to twelve months' salary.

In 2007, Kenya also ratified the African Union Convention on Preventing and Combating Corruption (AUCPCC). However, without a coherent body of law, whistleblower protection is fragmented across multiple statutes, including the Anti-Corruption and Economic Crimes Act (2003), the Witness Protection Act (2006), the Proceeds of Crime and Anti-Money Laundering Act (2009), the Leadership and Integrity Act (2012), the Anti-Bribery Act (2016), and the Conflict of Interest Act (2025).

In 2025, Kenya ranked 130th out of 182 countries in Transparency International's Corruption Perceptions Index. This ranking places Kenya in the lower third of assessed countries globally, underscoring the systemic nature of corruption within public institutions.

0.1

WHO IS A WHISTLEBLOWER

Most laws relevant to whistleblowing apply primarily to public officials, and several statutes are explicitly restricted to defined categories of state officials, such as the Leadership and Integrity Act (2012), which applies narrowly to state officers. Section 42 of the Act further provides information on how to lodge official complaints with the relevant public entity for citizens who allege that a state officer has committed a breach. According to Transparency International-Kenya, Part II of the Act is key to promoting whistleblowing because it establishes a Leadership and Integrity Code for State officers, which, among other issues, covers public trust, financial integrity, and conflict of interest^[7].

The Anti-Bribery Act^[8] represents the most explicit statutory recognition of whistleblower protection within Kenya's current legal framework. According to the Act, a whistleblower means "a person who makes a report to the Commission^[9] or the law enforcement agencies on acts of bribery or other forms of bribery". Part IV of the Act imposes a duty to report, stipulating that "every State officer, public officer, or any other person holding a position of authority in a public or private entity shall report to the Commission, within twenty-four hours, any knowledge or suspicion of instances of bribery." This duty to report applies to all individuals, public officers, and both public and private entities operating in Kenya (Section 4), with extraterritorial reach for Kenyan citizens and entities acting abroad (Sections 15).



As it stands, the Anti-Bribery Act extends protection only to public officers and persons occupying positions of authority within public and private entities. This leaves a significant number of potential whistleblowers entirely outside the scope of legal protection, including interns, volunteers, self-employed individuals, shareholders, community members and civil groups. This narrow definition is notable, given that wrongdoing is frequently witnessed and reported by individuals who fall outside the traditional employment relationship, and whose disclosures may be no less significant to the public interest.

Whether statutory protections apply before, during, and after an employment relationship is a further gap that Kenyan whistleblower statutes are largely silent on. Whistleblowing is framed around the employment relationship as currently constituted, with no provision for prospective employees, former employees, or those whose employment is terminated, leaving a significant window of vulnerability.

However, the latest version of the Whistleblower Protection Bill (2024) provides a larger definition of a whistleblower as “any person who has personal knowledge of or access to any data, information, fact or event constituting improper conduct and who makes a public interest disclosure of that information in accordance with this Act, or a person who assists such an individual.” The suggested definition is broad and inclusive, and, unlike the Anti-Bribery Act, the new definition avoids linking protection to a working or professional relationship with the entity concerned. The use of “any person” extends safeguards to former employees, contractors, volunteers, and even members of the public. Furthermore, the inclusion of “a person who assists such an individual” is particularly progressive, as retaliation often targets third parties, including colleagues, family members, and facilitators.

0.2

TYPES OF REPORTABLE WRONGDOING

Kenya's current statutory framework on whistleblowing remains largely confined to corruption-related wrongdoing. The Anti-Bribery Act focuses specifically on “any knowledge or suspicion of instances of bribery,” a relatively narrow threshold.

The existing legislation fails to address many significant forms of wrongdoing, most notably environmental harm, corporate misconduct, and violations of the broader public interest. This gap considerably narrows the scope of whistleblowing in practice. Without statutory protection in these domains, potential whistleblowers are left without legal recourse, discouraging the disclosure of misconduct that falls outside the scope of corruption.

The Whistleblower Protection Bill (2024) provides a notably broader scope of reportable conduct, which applies to both public and private entities and is not limited to bribery or corruption. It covers: contraventions of any Act of Parliament or county assembly legislation; acts or omissions creating danger to the life, health, or safety of persons; acts or omissions likely to damage the environment; gross mismanagement, wasteful expenditure, or misuse of public assets; criminal offences, including those relating to bribery, economic crimes, and leadership and integrity; and violations of human rights and fundamental freedoms. Additional reportable conduct includes the solicitation of bribes, unfair discrimination, and the abetting of improper conduct.



0.3

REPORTING CHANNELS & PROCEDURES

INTERNAL REPORTING CHANNELS

In 2022, although the current framework does not expressly provide for establishing internal procedures in public and private institutions, the Attorney General adopted guidelines under Section 9(3) of the Anti-Bribery Act to implement internal reporting mechanisms. The guidelines were developed in consultation with the Ethics and Anti-Corruption Commission (EACC), the body established to combat corruption, economic crime, and unethical conduct in Kenya. The guidelines are designed to help public and private entities, as well as other persons, prepare and implement procedures to prevent bribery and corruption in accordance with Section 9(3) of the Anti-Bribery Act.

The guidelines further mandate the establishment of sufficient mechanisms to facilitate efficient and effective reporting of bribery and corruption. This includes specifying the reporting channels the entity can use and establishing a Monitoring and Evaluation framework to ensure compliance. The 2024 revised version introduced a reporting form and a checklist to support organisations in developing and implementing their internal procedures. However, according to Transparency International-Kenya, widespread non-compliance in public and private entities persists despite these guidelines^[10].

EXTERNAL REPORTING CHANNELS

- **EACC** is Kenya's principal anti-corruption body, empowered to initiate investigations on its own motion based on third-party reports. It operates both an anonymous online platform and a telephone hotline. A 2025 public procurement case processed through this system led to the recovery of KSh 500 million (approximately USD 3.9 million)^[11].

Several other authorities are empowered to receive whistleblower disclosures under Kenya's existing legislative framework:

- The **Office of the Director of Public Prosecution (ODPP)** can receive disclosures but has drawn criticism from the EACC for dropping investigations involving high-profile individuals^[12]. The ODPP has dropped 18 high-profile corruption cases since 2013, with the majority withdrawn between 2023 and 2024.
- The **Directorate of Criminal Investigations (DCI)** as Kenya's primary criminal investigations body, handles reports of police misconduct and corruption-related offences in coordination with the ODPP. For complaints specifically against police officers.
- The **Internal Affairs Unit (IAU)** serves as the body within the National Police Service and accepts both named and anonymous reports on police officer conduct.
- The **Kenya Revenue Authority (KRA)** serves as a disclosure channel for matters relating to tax evasion, financial crimes, and related fiscal misconduct.
- The **Financial Reporting Centre (ERC)** acts as Kenya's financial intelligence unit, analysing suspicious transactions and disseminating findings to enforcement agencies.

The Goldenberg Scandal

In the past, the Kenyan Parliament has also served as an unofficial channel for disclosure, most notably demonstrated during the **Goldenberg scandal** in the early 1990s. David Munyakei, a Central Bank clerk, uncovered that Goldenberg International was receiving payments for gold and diamond exports that never existed, with government officials approving fictitious transactions^[13]. He leaked documents to the political opposition, who tabled them in Parliament. He was arrested under the Official Secrets Act for communicating information to "unauthorised persons." Though eventually cleared, he was dismissed from his job, fled to Mombasa fearing for his life, and subsequently spent a decade in poverty^[14].

Under the 2024 Whistleblower Protection Bill, multiple avenues for whistleblowing are provided, including the possibility of making disclosures to the **Commission on Administrative Justice (CAJ)**, which is mandated to address maladministration in the public sector. This mandate includes investigating complaints of delay, abuse of power, unfair treatment, manifest injustice, and discourtesy.

However, the 2024 Whistleblower Protection Bill contains a significant structural gap: it fails to recognise the possibility of disclosures to third parties. This omission is particularly troubling given that, as noted above, many whistleblowers have been compelled to turn to the media after internal and official reporting mechanisms proved ineffective, compromised, or actively hostile. By excluding third-party disclosures, the bill not only ignores established whistleblowing practices but also effectively strips protection from individuals who expose wrongdoing in the public interest when formal channels fail.

The Douglas Muchela case

Douglas Muchela, a school chef who raised repeated internal food safety complaints at Mukumu Girls' High School, was dismissed as a "serial complainer," and only spoke out to the media after over 100 students were hospitalised from food contaminated with human waste in 2023^[15] illustrates precisely this dynamic. He was subsequently fired and pursued legal action for wrongful termination.

While the existence of multiple reporting institutions reflects a robust oversight framework, their effectiveness in addressing corruption and wrongdoing remains contingent on the public's confidence in their independence and capacity to act. A 2024 academic analysis of the EACC has pointed to the lack of financial and human resources at the commission, while Transparency International's 2025 Bribery Index Report indicates relatively low levels of public trust in the EACC, which received a score of 2.6 out of five, representing a decline since 2019. Other key anti-corruption institutions also have relatively low levels of public trust, with the Office of the Auditor-General receiving 2.9 and the Judiciary 2.6. This trend is concerning, as distrust in anti-corruption institutions significantly undermines efforts to combat corruption. A 2023 national survey conducted by the EACC also found that 86% of respondents feared the consequences of reporting corruption, suggesting that reporting institutions and formal channels are undermined by low public trust, limited awareness of reporting mechanisms and procedures, and persistent fears of retaliation.



0.4

PROTECTION MEASURES & SUPPORT MECHANISMS

Continuing the fragmented nature of whistleblowing in Kenya's legal framework, protection provisions are dispersed across several pieces of legislation, with no single statute providing comprehensive or coordinated coverage.

Section 65 of the Anti-Corruption and Economic Crimes Act 2003 (ACECA)

Section 65 of the Anti-Corruption and Economic Crimes Act 2003 (ACECA) offers a degree of protection to informers who assist the EACC or its investigators in dealing with corruption offences or economic crimes. It bars the institution or continuation of any proceedings, including disciplinary proceedings against a person who makes a disclosure to the Commission, and provides for the concealment of their identity from documents produced in related proceedings. However, the scope of this protection is limited in practice: the Act does not define the term "informer", making it unclear whether it applies equally to whistleblowers.

The Proceeds of Crime and Anti-Money Laundering Act (2009)

Under the Proceeds of Crime and Anti-Money Laundering Act (2009), persons subject to mandatory reporting obligations, such as financial professionals, benefit from immunity from civil liability for disclosures made in good faith and with due diligence. While this offers some protection, it is confined to a narrow category of professionals with statutory reporting duties and does not address criminal liability, employment consequences, or physical security risks.

Section 47 of the Conflict of Interest Act (2025)

Section 47 of the Conflict of Interest Act (2025) provides that no person shall be penalised in relation to their employment, profession, voluntary work, contract, membership of an organisation, or the holding of an office, as a result of having made - or proposed to make - a disclosure of information obtained in confidence in the course of that activity, provided the disclosure is made in the public interest. While this represents a meaningful step forward, it does not constitute a standalone whistleblower protection mechanism.

Section 21 of the Anti-Bribery Act

Section 21 of the Anti-Bribery Act provides **the most substantive whistleblower protection**. It states, “a whistleblower, informant or witness in a complaint or a case of bribery shall not be intimidated or harassed for providing information to law enforcement institutions or for giving testimony in a court of law”. Subsection (2) further establishes punitive measures against any person who retaliates against a whistleblower, including by demotion, reprimand, dismissal, transfer to unfavourable working conditions, or other forms of harassment or intimidation. Such conduct attracts a fine not exceeding one million Kenyan shillings (approximately USD 7,750), imprisonment for a term not exceeding one year, or both. The Act additionally safeguards the whistleblower’s identity, reports and information sources by criminalising unauthorised disclosure, subjecting offenders to the same sanctions, and allowing whistleblowers who testify to qualify for protection under the Witness Protection Act (2006).

Section 4 of the Witness Protection Act

Under Section 4 of the Witness Protection Act, protective measures may include relocation, change of identity, physical or armed protection, and any other actions considered necessary to ensure the individual’s safety. In this respect, the protections available under the Act are relatively robust. However, protection is generally only available once criminal proceedings have been initiated and the individual is expected to testify as a witness. Admission into the programme is also discretionary and guided by the criteria set out in Section 5, which include the seriousness of the offence, the level of risk faced by the witness, and the availability of alternative means of protection. Consequently, while the Act provides strong protective mechanisms in principle, the threshold for accessing them is high. The Act also introduced the only reward mechanism currently present in Kenyan law: a whistleblower whose disclosure leads to arrest and conviction may receive a monetary reward up to KSh 5 million (approximately USD 38 760) or 5% of recovered assets.

Despite these formal guarantees, the Anti-Bribery Act provides limited guidance on the practical enforcement of protection measures. While the EACC and Attorney General 2024 guidelines sought to address this gap, their provisions remain narrow in scope, confining themselves to requiring entities to maintain the confidentiality of whistleblowers, informants, and witnesses by maintaining the confidentiality of the information they provide. Entities must establish dedicated reporting channels for cases of retribution, victimisation, or intimidation, and take appropriate action where such conduct is reported. Additionally, entities are required to implement protective measures, including anonymous reporting mechanisms and a whistleblower policy incorporating a non-retaliation clause.

In practice, whistleblowers - particularly public servants - have continued to experience subtle or informal forms of retaliation, such as unexplained transfers, delayed promotions, or professional marginalisation, which are difficult to document and sanction under the existing framework^[16]. Moreover, the Anti-Bribery Act remains silent on several key dimensions of whistleblower protection, including interim relief measures, reinstatement, compensation for retaliation, legal and psychological support, and clear institutional mechanisms for monitoring and enforcing compliance. These omissions significantly weaken the effectiveness of the protections provided and underscore the need for a comprehensive and standalone whistleblower protection regime.



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The Lilian Waithera Case

Lilian Waithera's case offers one of the clearest illustrations of the legal and institutional obstacles confronting whistleblowers in Kenya. As a former employee of the National Health Insurance Fund (NHIF), she was fatally shot while walking back to her office with a colleague on 13 February 2023^[17]. It was widely alleged that she had exposed a scandal worth 1 billion shillings (approximately USD 7.75 million) within the institution. By that time, the NHIF had a long history of corruption scandals involving fake patients, inflated billing, duplicate claims, and pension funds embezzlement^[18]. Waithera's death was never properly investigated and there was no official verification connecting her death to the scandal she exposed.

The 2024 Whistleblower Protection Bill establishes a comprehensive framework to protect whistleblowers, ensuring their safety and legal security at multiple levels. It guarantees the confidentiality of the information disclosed, grants immunity from civil or criminal liability arising from making a public disclosure, and explicitly addresses reprisals in the broad language of “detrimental action”. This includes workplace reprisals such as dismissal, demotion, or harassment, as well as reprisals affecting contracts or contractual relationships. Crucially, the law also provides safeguards against physical harm and against the life or property of a whistleblower, of his or her family, or an associated person. In this regard, the Bill mentions that the enforcement agency or the Commission shall refer the matter to the Witness Protection Agency for further action. Furthermore, the Bill provides for the possibility that a public-private entity or an enforcement agency may establish a scheme to reward whistleblowers.

However, the Bill falls short in addressing interim relief for whistleblowers. It does not explicitly provide for critical measures such as coverage of attorney and mediation fees, transfer to a new department or supervisor, or compensation for loss of past, present, and future earnings and professional status. Likewise, it omits compensation for pain and suffering and the establishment of a dedicated fund to assist whistleblowers with legal procedures or to support those facing serious financial hardship.

03

RELEVANT COMPLEMENTARY LEGISLATION



The safety of whistleblowers extends well beyond the legal protections they are afforded; it also depends on the broader environment of freedom of expression and press freedom, as well as on the anti-corruption legislation in which those disclosures are made. In Kenya, while constitutional protections for both freedoms are relatively robust on paper, the practical environment for media and expression has deteriorated markedly in recent years, creating conditions that compound the risks already faced by those who choose to speak out.

0.1

FREEDOM OF EXPRESSION AND RELATED FREEDOMS

Freedom of expression in Kenya is under growing strain. In recent years, the reinstatement of state repression has intensified these pressures, pushing many forms of resistance into digital spaces. Against this backdrop, press freedom and investigative journalism have also come under increasing threat. This trend is particularly concerning given the critical role that an independent media plays in amplifying and investigating whistleblower disclosures, holding public institutions to account, and sustaining public awareness of wrongdoing that bears on the broader common good.

Constitutional and Legal Protection

Kenya's 2010 Constitution guarantees freedom of expression under Article 33. Yet the country has historically relied on repressive colonial-era legislation to suppress dissent. In a landmark 2024 ruling, the Kenyan High Court struck down the offence of subversion - introduced under the British protectorate - as unconstitutional, a significant victory for civil rights reform^[19].

Despite this legal victory, the broader media environment has deteriorated significantly in recent years. Kenya fell from 69th place to 117th place on the World Press Freedom Index between 2022 and 2025, a decline of 48 positions. According to Reporters Without Borders (RSF) "the authorities can influence the appointment of media managers and editors [...] This strong governmental presence leads to self-censorship".

More recently, following the 2024 Finance Bill protests, Kenya saw a sharp rise in enforced disappearances, extrajudicial killings, arbitrary arrests, and torture. The Committee to Protect Journalists (CPJ) documented reports of several journalists being attacked and detained. For example, in 2025, teacher and blogger Albert Ojwang was arrested after posting allegations of police corruption online. He died after a single day in custody^[20].

Kenyan authorities have also banned live media coverage of demonstrations. On 25 June 2025, during the anniversary protests, the Communications Authority shut down at least three broadcasters (NTV, K24, KTN) and effectively banned live coverage^[21].



Despite these setbacks, the country retains a vibrant media sector, and various national bodies like the Media Council of Kenya continue to advocate for stronger legal protections to uphold press freedom^[22]. The country has also emerged as one of the most fertile environments for investigative journalism in Africa, with journalists and media outlets playing a central role in exposing corruption, abuse of power, and governance failures despite political and institutional pressures, often thanks to whistleblower disclosures.

Access to Information Laws

Article 35 of the Constitution establishes the right to access information held by the state, and the Access to Information Act (2016) operationalises this right. One of its stated purposes is to “provide for the protection of persons who disclose information of public interest in good faith” (Section 3). Where disclosures are made in compliance with the Act, individuals are protected from legal action. Section 8 also requires authorities to respond within 48 hours where requested information concerns the life or liberty of a person.

Nevertheless, the Act contains broad exemptions. Section 6 allows public bodies to refuse disclosure where information could harm national security, commercial interests or legal proceedings. According to non-profit ARTICLE 19, these provisions “give a high level of discretion to public entities as to quality and quantity” of information disclosed. The organisation further reported in 2021 that Kenya “still struggles with the implementation of this legislation” five years after its enactment, citing “a culture of secrecy in public and private bodies”^[23].

However, criminal prosecution has been used against investigative journalists reporting on allegations of corruption against government officials^[24]. Investigative journalist **Robert Wanjala Kituyi** requested data from Safaricom on court orders it received from police between June and October 2024, seeking personal data of individuals a period marked by widespread abductions of government critics following the 2024 anti-government protests invoking article 35 and the Access to Information Act^[25]. When Safaricom refused, Kituyi escalated to the **Commission on Administrative Justice** (CAJ), which ruled in his favour in February 2025 and ordered compliance. Rather than comply, Safaricom appealed to the High Court in March 2025, arguing it is a private entity exempt from public disclosure laws and that releasing the data would harm its commercial interests.

Civil society organisations including the KHRC, Katiba Institute, and the Business and Human Rights Centre have characterised this as a SLAPP suit (Strategic Lawsuit Against Public Participation) a tactic designed to burden journalists with costly legal proceedings rather than address the substance of their reporting^[26].

As such, access to government information remains difficult. This is particularly true for information regarding public finance, debt, and procurement^[27]. In this context, whistleblowing represents an important mechanism through which the public learns about state activities, including financial management and procurement practices.

Data Protection and Cybercrime Laws

With traditional channels increasingly constrained, digital platforms have become critical spaces for whistleblowing. Social media allows citizens to bypass institutional barriers and reach wider audiences. In response, the state has employed digital repression: internet throttling, unlawful surveillance, state-sponsored trolls, and platform blocking. Following protests in June 2025, major providers, including Safaricom, Jamii Telecommunication, and Liquid Intelligent Technologies, imposed internet restrictions and blocked the popular communications application Telegram. Nineteen civil society organisations condemned these measures as an assault on the constitution^[28].

The Data Protection Act (2019) establishes protections for personal data and generally requires the data subject's consent for data processing. However, the Act includes important exemptions for journalism. It provides that data-protection principles do not apply where a data controller “reasonably believes that publication would be in the public interest”. This allows journalists to process personal data about individuals under investigation without full regulatory constraints.

At the same time, section 51 provides a broad exemption for national-security activities. Where state agencies process data for security purposes, they are not bound by the Act's safeguards. Combined with other surveillance powers available to authorities, this creates a situation in which whistleblowers communicating digitally may have limited protection against state monitoring.

The Computer Misuse and Cybercrimes Act (2018) has also been used against online critics, whistleblowers, and journalists. A 2025 amendment to the Act drew considerable opposition. According to Freedom House, “internet users continued to face arrest on charges of cyberharassment and publication of false information for social media posts critical of public figures, including President William Ruto”. Human Rights Watch warned that the vague wording of the revisions could be used to arbitrarily harass investigative journalists and ordinary citizens who voice criticism^[29]. During the same reporting period, three political bloggers were murdered.

Additionally, the CMCA provides for sentences of up to 10 years in prison and a fine of 40,000 euros for the dissemination of “fake news” likely to incite violence^[30]. The constitutionality of several provisions of the Act was challenged in litigation led by the Bloggers Association of Kenya (BAKE). Petitioners argued that a number of provisions could undermine whistleblowing and investigative reporting by exposing individuals and media outlets to criminal liability for accessing and publishing leaked documents. In 2026, Kenya's Court of Appeal declared sections 22 and 23, which criminalised the publication of “false” information, unconstitutional, finding the provisions overly broad and weaponised against human rights defenders, journalists, bloggers, and citizens participating in public discourse^[31].

0.2

OTHER RELEVANT LEGISLATION

Labour and Employment Law

The Employment Act 2007 addresses unfair dismissal by stipulating that “no employer shall terminate the employment of an employee unfairly” (Section 45(1)). Among the reasons that define unfair dismissal, the act lists several factors, but the disclosure of wrongdoing is not mentioned. Nonetheless, the act outlines a formal mechanism for employees to challenge unfair dismissal, including filing a complaint with a labour officer. However, Section 47(5) establishes a split burden of proof: the employee must first demonstrate that an unfair termination or wrongful dismissal has occurred, after which the employer bears the burden of justifying the grounds for the dismissal. For whistleblowers, this creates a structural obstacle as employers can characterise the termination in disciplinary terms, making it difficult to prove a causal connection between the disclosure and the dismissal.

National Security and Official Secrets

Kenya’s national security legislation presents one of the most significant legal risks for whistleblowers, particularly following the 2020 amendment to the Official Secrets Act, 1968. The amendment was signed into law by Uhuru Kenyatta on 11 December 2020 as part of an omnibus statute, without prior public consultation on its digital provisions. The amendment significantly expands the scope of the Act to cover modern digital communications, by authorising the Interior Cabinet Secretary to access data from phones and computers and imposing severe penalties for non-compliance. The Act targets various platforms such as WhatsApp, email, and cloud-stored documents, the very tools commonly used by whistleblowers to share information. The Act has been used to silence whistleblowers, such as David Munyakei, who exposed the Goldenberg Scandal as previously mentioned.

Civil society organisations have warned that the legislation is incompatible with international freedom-of-expression standards and poses substantial risks to individuals who disclose wrongdoing in the public interest. In particular, ARTICLE 19 highlights three key concerns^[32]. First, the Act provides no public interest defence, meaning that individuals prosecuted under the legislation cannot argue that their disclosure benefited the public good. Second, the penalties are severe and disproportionate, with criminal sanctions of up to fourteen years’ imprisonment despite the absence of clear requirements of intent to harm national security. Third, the 2020 digital amendment expands state surveillance powers, granting authorities broad warrantless search capabilities over digital communications, with serious implications for privacy and access to information.



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RELEVANT LEGISLATION

INTERNATIONAL AND REGIONAL CONVENTIONS:

- [United Nations Convention Against Corruption \(2003\)](#) (ratified in 2003)
- [African Union Convention on Preventing and Combating Corruption \(2003\)](#) (ratified in 2007)

LEGISLATION:

- [The Constitution of Kenya, 2010](#)
- [Public Officer Ethics Act, 2003](#)
- [Leadership and Integrity Act, 2012](#)
- [Conflict of Interest Act, 2025](#)

FINANCIAL CRIMES:

- [The Anti-Bribery Act, 2016](#)
- [Anti-Corruption And Economic Crimes Act, 2003](#)
- [Proceeds of Crime and Anti-Money Laundering Act, 2009](#)

MEDIA AND FREEDOM OF INFORMATION:

- [Media Council Act, 2013](#)
- [Computer Misuse and Cyber Crimes Act, 2018](#)
- [The Data Protection Bill, 2019](#)

INSTITUTIONS:

- [Ethics and Anti-Corruption Commission \(EACC\)](#)
- [Commission on Administrative Justice \(Ombudsman\) of Kenya](#)

PROGRAMS AND POLICIES:

- In 2021, the Attorney General in consultation with the Ethics and Anti-Corruption Commission (EACC) published [Guidelines](#) in respect to the Bribery Act,

LAW PROPOSALS:

Kenya has published a draft bill outlining protections for whistleblowers ([The Whistleblower Protection Bill, 2024](#)).

ENDNOTES

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RESOURCE, KNOWLEDGE AND ADVICE CENTRES

The following trusted organisations provide support, information, or advocacy in relation to whistleblowing and related rights in Kenya:

Transparency International Kenya

Address: Bishop Magua Center, Off Ngong Road - George Padmore Lane, Ground Floor, Wing B UG 7
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