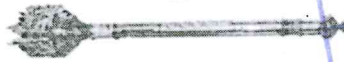
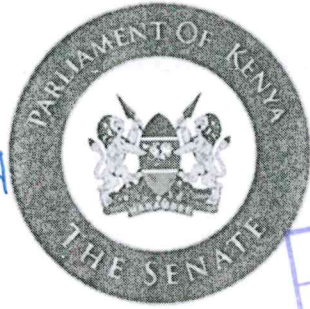


Rt. Hon. Speaker
Recommended for approval
for tabling
of 19/10/2023



THE SENATE

PAPERS LAID	
DATE	19/10/2023
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THIRTEENTH PARLIAMENT | SECOND SESSION

**REPORT OF THE AD HOC COMMITTEE TO INVESTIGATE THE
PROLIFERATION OF RELIGIOUS ORGANISATIONS AND
CIRCUMSTANCES LEADING TO MORE THAN 95 DEATHS IN
SHAKAHOLA, KILIFI COUNTY**

Approved.
Amuri
19.10.2023
DSS

Clerk's Chambers,
The Senate,
First Floor, Parliament Buildings,
NAIROBI.

DC-E.G.
Forwarded and recommended for approval
for tabling
October, 2023
19/10/2023

EXECUTIVE SUMMARY

This report documents an investigation by the Senate Ad Hoc Committee formed to investigate the proliferation of religious organizations and circumstances leading to more than 95 deaths in Shakahola, Kilifi County.

Chapter One of the report provides an introduction to the report. On or about 25th April, 2023, the mainstream media in Kenya reported disturbing discoveries of people buried in shallow graves in a forest in Shakahola, Kilifi County. The media and security agencies attributed the deaths to a religious group known as Good News International Church linked to one Paul Nthenge Mackenzie. Due to public interest generated by the matter the Ad Hoc Committee was established pursuant to standing order 199 of the Senate Standing Orders at a Sitting of the Senate held on Thursday, 27th April, 2023, following the adoption of the motion.

The Ad Hoc Committee's mandate was to—

- (i) investigate the circumstances leading to the death of the followers of the Good News International Church led by one Paul Mackenzie Nthenge in Shakahola village, Kilifi County;
- (ii) investigate the role played by one Paul Mackenzie of the Good News International Church, his pastoral team and the Kilifi County Security Committee in aiding and abetting the deaths of the followers of the Good News International Church in Shakahola, Kilifi County;
- (iii) establish through the office of the Registrar of Societies, the number and activities of religious groups in the country including their registration and compliance status;
- (iv) audit the legal and registration framework for religious organizations in the country;
- (v) develop a legislative proposal on regulation of religious activities in the country; and
- (vi) make any other recommendation that will prevent religious organizations from extreme indoctrination of their followers including radicalization, spiritual and financial exploitation.

The Senate granted the Committee ninety (90) days to complete its investigation and table a report on or before 26th July, 2023. However, the Committee sought an extension through a motion that was adopted by the House on 1st August, 2023. The Committee was granted a thirty (30) day extension to conclude its work and table a report on or before 5th September, 2023. Due to the evolving nature of events, on 3rd October, 2023, the House granted the Committee a further fourteen (14) days from 5th October, 2023 to conclude its work and table its final report on or before 19th October, 2023.

Following its establishment, the Committee held its first meeting on 3rd May, 2023 where it considered and adopted a work plan, identified stakeholders for engagement with the Committee and prepared a framework for stakeholder engagement and public hearings. In fulfillment of its mandate and pursuant to Article 118 of the Constitution, the Committee invited various stakeholders and members of the public to submit their views. The Committee also undertook fact-finding visits to Kilifi County from 18th to 21st May, 2023 and Vihiga and Kisumu Counties from 22nd to 24th June, 2023. During these visits, the Committee received first-hand information from survivors of the tragedy, victims' families, county security committees, religious groups and civil society groups.

Chapter Two of the report elaborates the current legal framework on religious organisations in Kenya. Article 8 of the Constitution of Kenya provides that there shall be no state religion. Further, Articles 32 and 36 of the Constitution guarantee religious freedom and freedom of association respectively. However, the freedom of religion and association are not absolute. Article 24 of the Constitution provides that a right or fundamental freedom can be limited by law to an extent that the limitation is justifiable and reasonable in an open and democratic society based on human dignity, equality and freedom among other relevant factors. The Chapter analyses the statutes in Kenya that are relevant to religious organisations including the Societies Act (Cap. 108); Trustees (Perpetual Succession) Act (Cap. 164); Companies Act, 2015; Limited Liability Partnership Act, 2011; and the Income Tax Act (Cap. 470). Additionally, previous attempts to regulate religious organisations are also examined. In 2015, the State through the Office of the Attorney General developed the draft Societies (Religious Societies) Rules to address the inadequacy of the current legal framework on registration and oversight of religious organisations.

Chapter Three of the report provides a background into demographic religious affiliations in Kenya, cases of religious extremism and the government's responses. The Chapter also provides a comparative analysis on extreme religious incidences that have occurred globally and compares certain aspects with other jurisdictions including the legal and policy framework. Further, the Chapter examines the legal reforms on registration of religious organisations and response to violent religious incidences in France, Uganda, Japan and Rwanda.

Chapter Four of the report elaborates the stakeholder engagements and public hearings undertaken by the Committee. In fulfilment of its mandate and pursuant to Article 118 of the Constitution, the Committee conducted a comprehensive stakeholder engagement on various dates from 10th May to 13th October, 2023. The Committee held several public hearings publicised through the county commissioner's offices in Kilifi, Vihiga and Kisumu Counties and a public advertisement in the Standard and the Daily Nation of 18th July, 2023. The Committee received both oral submissions and written memoranda from more than two hundred and ten (210) stakeholders and members of the public.

Chapter Five of the report sets out the observations and recommendations of the Committee. The Committee observed that as at 13th October, 2023, four hundred and twenty-eight (428) bodies had been exhumed and recovered from Shakahola, Kilifi County. One of the suspects died in prison custody bringing the total number of deaths to four hundred and twenty-nine (429). There is possibility that the death toll may rise in subsequent exhumations. The Committee further observed that Kenya has experienced deaths linked to religious extremism in the past, however, the Shakahola tragedy has registered the highest number of fatalities in Kenya’s recorded history. The Committee has made comprehensive observations and recommendations for action by various agencies, key among which is action that should be taken against Paul Nthenge Mackenzie and National Government administration and security officers who had a duty of care to the victims of the tragedy. The recommendations also include a legislative proposal providing a framework for the regulation of religious organisations for enactment by Parliament. The proposed Religious Organisations Bill, 2023 is annexed to this report.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
ANNEXES.....	vi
ABBREVIATIONS AND ACRONYMS	vii
LIST OF STATUTES AND REGULATIONS	viii
LIST OF FIGURES	ix
LIST OF TABLES.....	x
CHAIRPERSON’S FOREWORD.....	xi
ADOPTION OF THE REPORT OF THE AD HOC COMMITTEE TO INVESTIGATE THE PROLIFERATION OF RELIGIOUS ORGANISATIONS AND CIRCUMSTANCES LEADING TO DEATHS OF MORE THAN 95 PEOPLE IN SHAKAHOLA, KILIFI COUNTY	xxii
CHAPTER ONE.....	1
INTRODUCTION	1
1.0 BACKGROUND	1
CHAPTER TWO	8
CURRENT LEGAL FRAMEWORK AND POLICY ON RELIGIOUS ORGANISATIONS IN KENYA	8
2.0 LEGAL FRAMEWORK ON RELIGIOUS ORGANISATIONS	8
CHAPTER THREE	17
RELIGION IN KENYA AND COMPARATIVE ANALYSIS	17
3.0 INTRODUCTION	17
3.1. RELIGION IN KENYA.....	17
3.2. COMPARATIVE ANALYSIS	20
CHAPTER FOUR.....	40
STAKEHOLDER ENGAGEMENT AND PUBLIC HEARINGS	40
4.0 ATTENDANCE BY STAKEHOLDERS.....	40
4.1. SUBMISSIONS BY STAKEHOLDERS AND MEMBERS OF THE PUBLIC	41
4.2. INVESTIGATE THE CIRCUMSTANCES LEADING TO THE DEATH OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH LED BY ONE PAUL MACKENZIE NTHENGE.....	43
4.3. INVESTIGATE THE ROLE PLAYED BY ONE PAUL MACKENZIE OF THE GOOD NEWS INTERNATIONAL CHURCH, HIS PASTORAL TEAM AND THE KILIFI COUNTY SECURITY COMMITTEE IN AIDING AND ABETTING THE DEATHS OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH IN SHAKAHOLA VILLAGE, KILIFI COUNTY.....	74

4.4.	ESTABLISH THROUGH THE OFFICE OF THE REGISTRAR OF SOCIETIES, THE NUMBER AND ACTIVITIES OF RELIGIOUS GROUPS IN THE COUNTRY INCLUDING THEIR REGISTRATION AND COMPLIANCE STATUS.....	87
4.5.	AUDIT THE LEGAL AND REGISTRATION FRAMEWORK FOR RELIGIOUS ORGANIZATIONS IN THE COUNTRY	90
4.6.	DEVELOP A LEGISLATIVE PROPOSAL ON REGULATION OF RELIGIOUS ACTIVITIES IN THE COUNTRY	99
4.7.	MAKE ANY OTHER RECOMMENDATION THAT WILL PREVENT MAKE ANY OTHER RECOMMENDATION THAT WILL PREVENT RELIGIOUS ORGANIZATIONS FROM EXTREME INDOCTRINATION OF THEIR FOLLOWERS INCLUDING RADICALIZATION, SPIRITUAL AND FINANCIAL EXPLOITATION.....	110
CHAPTER FIVE		121
OBSERVATIONS AND RECOMMENDATIONS		121
5.0	OBSERVATIONS OF THE COMMITTEE.....	121
5.1.	MANDATE 1: INVESTIGATE THE CIRCUMSTANCES LEADING TO THE DEATH OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH LED BY ONE PAUL MACKENZIE NTHENGE IN SHAKAHOLA VILLAGE, KILIFI COUNTY	121
5.2.	MANDATE 2: INVESTIGATE THE ROLE PLAYED BY ONE PAUL MACKENZIE OF THE GOOD NEWS INTERNATIONAL CHURCH, HIS PASTORAL TEAM AND THE KILIFI COUNTY SECURITY COMMITTEE IN AIDING AND ABETTING THE DEATHS OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH IN SHAKAHOLA, KILIFI COUNTY	129
5.3.	MANDATE 3: ESTABLISH THROUGH THE OFFICE OF THE REGISTRAR OF SOCIETIES, THE NUMBER AND ACTIVITIES OF RELIGIOUS GROUPS IN THE COUNTRY INCLUDING THEIR REGISTRATION AND COMPLIANCE STATUS	138
5.4.	MANDATE 4: AUDIT THE LEGAL AND REGISTRATION FRAMEWORK FOR RELIGIOUS ORGANIZATIONS IN THE COUNTRY	139
5.5.	MANDATE 5: DEVELOP A LEGISLATIVE PROPOSAL ON REGULATION OF RELIGIOUS ACTIVITIES IN THE COUNTRY	148
5.6.	MANDATE 6: OTHER OBSERVATIONS THAT WILL PREVENT RELIGIOUS ORGANIZATIONS FROM EXTREME INDOCTRINATION OF THEIR FOLLOWERS INCLUDING RADICALIZATION, SPIRITUAL AND FINANCIAL EXPLOITATION.....	155
5.7.	OTHER OBSERVATIONS AND RECOMMENDATIONS.....	156
5.8.	SUMMARY OF RECOMMENDATIONS AND PENDING ISSUES	158
SUMMARY OF RECOMMENDATIONS AND PENDING ISSUES.....		159
ANNEXES		Error! Bookmark not defined.

ANNEXES

- Annex 1** Motion on establishment of the Committee dated 27th April, 2023
- Annex 2** Minutes
- Annex 3** Advertisement for Public Hearing carried in the Daily Nation on 18th July, 2023
- Annex 4** Advertisement for Public Hearing carried in The Standard Newspaper on 18th July, 2023
- Annex 5** Memoranda from Stakeholders and the Public
- Annex 6** Pictorials
- Annex 7** Religious Organisation Bill, 2023
- Annex 8** Correspondence of the Committee
- Annex 9** Summonses and Affidavits of Summons

ABBREVIATIONS AND ACRONYMS

AASR	African Association for the Study of Religion
ACTEA	Association for Christian Theological Education in Africa
AG	Attorney-General
CA	Communications Authority of Kenya
CoG	Council of Governors
CUEA	Catholic University of East Africa
DCI	Director of Criminal Investigations
DNA	Deoxyribonucleic Acid
EAK	Evangelical Alliance of Kenya
Hon.	Honourable
ID	Identification Document
KAPC	Kenya Association of Professional Counsellors
KCCB	Kenya Conference of Catholic Bishops
KNCHR	Kenya National Commission on Human Rights
LSK	Law Society of Kenya
MP	Member of Parliament
NCKK	National Council of Churches of Kenya
NGEC	National Gender and Equality Commission
ODPP	Office of the Director of Public Prosecutions
Sen.	Senator
SUPKEM	Supreme Council of Kenya Muslims
USD	United States Dollar

LIST OF STATUTES AND REGULATIONS

1. Constitution of Kenya, 2010
2. Penal Code, Chapter 63, Laws of Kenya
3. Societies Act Chapter 108, Laws of Kenya
4. Registration of Persons Act, Chapter 107 of the Laws of Kenya
5. Births and Death Registration Act Chapter 149, Laws of Kenya
6. Trustees (Perpetual Succession Act) Chapter 164, Laws of Kenya
7. Kenya Information and Communication Act, Chapter 411A, Laws of Kenya
8. Income Tax Act Chapter 470, Laws of Kenya
9. Prevention of Organised Crimes Act No.6 of 2010
10. Prevention of Terrorism Act No.30 of 2012
11. Basic Education Act No.14 of 2013
12. Companies Act No.17 of 2015
13. Computer Misuse and Cybercrimes Act No.5 of 2018
14. Senate Standing Orders, 2023
15. Kenya Information and Communication (Broadcasting) Regulations, 2010
16. Draft Societies (Religious Societies) Rules, 2015

LIST OF FIGURES

Figure 1: Map of Kenya showing Counties of Kenya. Source: Government of Kenya.....	6
Figure 2: Infographic on the identity of Paul Nthenge Mackenzie	46
Figure 3: Infographic on Mr.Wanje's Story.....	53
Figure 4: Map of Chakama Ranch. Source: National Intelligence Service, Kenya	69
Figure 5: Definition of Common Terms.....	111
Figure 6: Characteristics of a Cult Leader.....	112
Figure 7: Characteristics of Cults	114

LIST OF TABLES

Table 1: Reported Cases as at July 2023	Error! Bookmark not defined.
Table 2: Comparative Analysis between Kenya and Rwanda	21
Table 3: Comparative Analysis on the Legal Framework between Kenya and Uganda..	25
Table 4: Comparative Analysis between Kenya and France.....	29
Table 5: Comparative Analysis between Kenya and Japan	37
Table 6: List of Stakeholders and Date of Attendance.....	40
Table 7: Mandate of the Committee and Emerging Thematic Areas.....	41
Table 8: Identity of Paul Nthenge Mackenzie. Source: National Registration Bureau.....	44
Table 9: Office bearers of Good News International Church as Registered by the Registrar of Societies.....	47
Table 10: Excerpt from Senate Hansard, 23 rd June,2023, Kisumu County.....	58
Table 11: Excerpt from Senate Hansard23 rd June, 2023, Kisumu County.....	59
Table 12: Excerpt from the Senate Hansard, 24 th June,2023, Vihiga County.....	61
Table 13: Excerpt from the Senate Hansard, 24 th June, 2023, Vihiga County.....	61
Table 14: Communication lines registered under Paul Mackenzie’s name. Source- Communications Authority	65
Table 15: Children Survivors: Source: Kenya National Human Rights Commission	66
Table 16: Previous Cases against Paul Mackenzie.....	77
Table 17: Cases linked to the recent activities of Good News International Church and Paul Mackenzie.....	79
Table 18: Number of Broadcasters Per Category Source: Communications Authority of Kenya.....	96
Table 19:Broadcasting Standards Categories Source: Communications Authority of Kenya.....	97

CHAIRPERSON'S FOREWORD

Mr. Speaker,

Honourable Members will recall that in a Senate Sitting held on Thursday, 27th April, 2023, a motion to establish an ad hoc committee to investigate the proliferation of religious organisations and the circumstances leading to the deaths of more than 95 people in Shakahola, Kilifi County was passed pursuant to standing order 199 of the Senate Standing Orders.

The Ad Hoc Committee was established to—

- (i) investigate the circumstances leading to the death of the followers of the Good News International Ministries led by one Paul Mackenzie Nthenge in Shakahola village, Kilifi County;
- (ii) investigate the role played by one Paul Mackenzie of the Good News International Ministries, his pastoral team and the Kilifi County Security Committee in aiding and abetting the deaths of the followers of the Good News International Ministries in Shakahola, Kilifi County;
- (iii) establish through the office of the Registrar of Societies, the number and activities of religious groups in the country including their registration and compliance status;
- (iv) audit the legal and registration framework for religious organisations in the country;
- (v) develop a legislative proposal on regulation of religious activities in the country; and
- (vi) make any other recommendation that will prevent religious organisations from extreme indoctrination of their followers including radicalisation, spiritual and financial exploitation.

Mr. Speaker,

The membership of the Committee was as follows—

- | | |
|--|---------------------------|
| 1. Sen. Danson Buya Mungatana, MGH, MP | – Chairperson |
| 2. Sen. Shakila Mohamed, MP | – Vice-Chairperson |
| 3. Sen. Mohamed Faki Mwinyihaji, MP | – Member |
| 4. Sen. Abdul Haji, MP | – Member |
| 5. Sen. William Kipkiror Cheptumo, CBS, MP | – Member |
| 6. Sen. Richard Onyonka, MP | – Member |
| 7. Sen. Veronica Maina, MP | – Member |
| 8. Sen. Hamida Kibwana, MP | – Member |
| 9. Sen. Tabitha Mutinda, MP | – Member |
| 10. Sen. Eddy Oketch, MP | – Member |
| 11. Sen. David Wakoli Wafula, MP | – Member |

The Senate granted the Committee ninety (90) days to complete its investigation and table a report on or before 26th July, 2023. However, the Committee sought an extension through a motion that was adopted by the House on 1st August, 2023. The Committee was granted a thirty (30) day extension to conclude its work and table a report on or before 5th September, 2023. Due to the evolving nature of events, on 3rd October, 2023, the House granted the Committee a further fourteen (14) days from 5th October, 2023 to conclude its work and table its final report on or before 19th October, 2023.

Mr. Speaker,

Following its establishment, the Ad Hoc Committee held its first meeting on 3rd May, 2023 where it considered and adopted a work plan, identified stakeholders for engagement with the Committee and prepared a framework for stakeholder engagement and public hearings.

In fulfillment of its mandate and pursuant to Article 118 of the Constitution, the Ad Hoc Committee invited various stakeholders and members of the public to submit their views. The Committee also undertook fact-finding visits to Kilifi County from 18th to 21st May, 2023 and Vihiga and Kisumu Counties from 22nd to 24th June, 2023. During these visits, the Committee received first-hand information from survivors of the tragedy, victims' families, county security committees, religious groups and civil society groups.

While in Kilifi County, the Committee conducted a site visit to Shakahola Forest and interacted with agencies involved in locating graves and exhuming bodies of victims. Additionally, the Committee met with the multi-agency team in charge of the Command Centre and was briefed about the operation. The Committee also visited Paul Mackenzie's compound in Shakahola Forest from where he coordinated his heinous activities.

Mr. Speaker,

The matters covered by the Committee's investigations were in some instances highly sensitive and at times could have been prejudicial to any future prosecution against Paul Mackenzie or other persons of interest. The Committee was alive to the fact that investigations and intelligence gathering on the circumstances surrounding the deaths in Shakahola were still ongoing and placing sensitive information in the public domain was likely to negatively affect the prosecution of suspects implicated in the case. The Committee, therefore, resolved to omit certain individuals from its interrogations and specific evidence that was received in camera sessions and documents that were classified as confidential. A summary of the key issues raised in the evidence is however contained in the body of this report.

The sensitivity of the matter aside, the Committee also encountered a few challenges in the execution of its mandate. Firstly, given the complexity and the evolving nature of the investigations, the initial timeline of ninety (90) days to fulfil its mandate was inadequate. Subsequently, the Committee was able to obtain two extensions of time for thirty (30) days from 1st August, 2023 to 5th September, 2023 and for fourteen (14) days from 3rd October,

2023 to 19th October, 2023. Despite these extensions, the Committees work was hampered by resource constraints and difficulties in obtaining witnesses.

Secondly and perhaps more gravely, despite extending invitations and issuing summonses, the Committee was unable to procure the attendance of key witnesses. This included the former Kilifi county security committee members who were transferred following the discovery of the tragedy in Shakahola forest namely—

	Name of Officer Transferred	Designation
1.	Joseph Kemboi	Senior Superintendent of Police (SSP)/ Sub-County Police Commander (SCPC), Malindi
2.	Charles Kamau Wanguhu	Assistant Superintendent of Police (ASP)/Senior County Criminal Investigation Officer (SCCIO) Malindi
3.	Solomon Odera	Superintendent of Police / Sub-County Police Commander (SCPC)
4.	Argamso Guracha	Superintendent of Police/ Critical Infrastructure Protection Unit (CIPU), Malindi
5.	Augusto Okuna	Officer Commanding Station (OCS), Malindi
6.	Hassan Hamara	Officer Commanding Station (OCS), Langobaya
7.	Calvin Malowa Otieno	Directorate of Criminal Investigation (DCI), Malindi
8.	Daniel Muthusi Muleli	County Criminal Investigation Officer (CCIO)
9.	Jecinta Wesonga	County Police Commander (CPC)
10.	Paul Maweu	Critical Infrastructure Protection Unit (CIPU)
11.	Joseph Yator	Police Officer attached to Directorate of Criminal Investigation

These officers were invited via a letter through the Cabinet Secretary Interior and National Administration. In the invitation letter dated 30th June, 2023 annexed to this report, the Committee requested the Cabinet Secretary Interior and National Administration to facilitate the attendance of these transferred officer before the Committee on 7th July, 2023 to shed light on certain matters including formal complaints that had been registered against Paul Mackenzie’s activities, actions taken to mitigate the radical activities of Good News International Ministries and an explanation of reasons for the delay in acting on intelligence received on the radical activities of Good News International Ministries.

On 7th July, 2023, when the Committee was expected to meet the transferred officers, the Cabinet Secretary Interior and National Administration, Prof. Kithure Kindiki appeared before the Committee and informed the Committee that some of the transferred officers were witnesses and some were suspects in the ongoing investigations into the Shakahola Tragedy. As such, to avoid jeopardizing the ongoing investigations, the Cabinet Secretary

Interior and National Administration sought to speak on behalf of the transferred officers, a request which the Committee initially accepted.

However, as the Committee's investigations intensified, the Committee felt strongly that there was a need to have the transferred officers appear before the Committee because they were present as the Shakahola tragedy was unfolding and possessed information that the Cabinet Secretary Interior and National Administration may not have been privy to and thus could not fill in the gaps. Accordingly, the Committee on 6th October, 2023 resolved to issue summons to the transferred officers to appear before the Committee on 13th October, 2023.

On 7th October, 2023, the Process Server travelled to Malindi Sub County with the intention to obtaining information of the whereabouts of the transferred officers. The Process Server reported to the Committee that he was unable to obtain the details of the transferred officers. As such, the Committee's efforts to obtain the whereabouts of the transferred officers were unsuccessful.

Secondly, despite extending three invitations on 6th July, 2023, 10th July, 2023 and on 18th August, 2023 and issuing a summons dated 6th October, 2023, the Chief Government Pathologist, Dr. Johansen Oduor failed to appear before the Committee. Dr. Oduor's appearance before the Committee was critical because of the significant role played by the Chief Government Pathologist in identifying the cause of death of bodies exhumed from Shakahola Forest and the progress of DNA matching. Consequently, the Committee resolved to issue a fine of Kshs. 500,000/= to be paid by Dr. Oduor personally and ordered the Inspector General of National Police Service to arrest Dr. Oduor and present him before the Committee on 17th October, 2023. That notwithstanding, Dr. Oduor was never presented to the Committee.

Following the issuance of the fine, the Committee received an email dated 17th October, 2023 from Dr. Johansen Oduor who informed the Committee that he was at all times willing to appear before the Committee but was requested by the Cabinet Secretary for Health, Hon. Susan Nakhumicha not to appear before the Committee on the basis that the investigations were ongoing. Additionally, Dr. Oduor informed the Committee that he was informed that the Cabinet Secretary Interior and National Administration, Prof. Kithure Kindiki would appear before the Committee in his stead.

Having justified his absence before the Committee, Dr. Oduor pleaded with the Committee to vacate the resolution to impose a fine upon him. The Committee deliberated on this matter and resolved to reprimand Dr. Oduor for failing to appear before the Committee. It should be noted by all persons that summons before a parliamentary committee are a serious matter. Any person who is summoned to appear before a parliamentary committee should appear, any reservations notwithstanding. That said, the Committee was sympathetic towards the predicament Dr. Oduor found himself in that is either honouring the summons or contradicting his superiors and as a result, resolved to vacate the decision to order a fine against Dr. Oduor.

Third, the Committee issued an initial summons to Paul Mackenzie on 7th October, 2023 to appear before the Committee on 13th October, 2023 to answer to among other things the beliefs and ideology of Good News International Ministries, the circumstances that led to the deaths and burial of followers of Good News International Ministries, his association with founders of an entity/group/religious outfit known as “ A Voice in the Desert” from Australia and the source of funding of Good News International Ministries. However, the Process Server was obstructed, by the Officer in Charge of Shimo la Tewa Prison, from effecting service of summons on the basis that the summons could only be effected through approval of the Director General of Prisons, a process unknown in law.

On 13th October, 2023, the Committee resolved to issue a second summons to Paul Nthenge Mackenzie to be presented before the Committee on 17th October, 2023. Committee also directed that the second summons should be accompanied by a warning letter to the officer in charge of Shimo la Tewa Prison informing the officer of the consequences of obstructing service of summons pursuant to section 27(3)(a) and 27(4) of the Parliamentary Powers and Procedures Act, 2017. It should be noted that it is only after issuing a warning that the Process Server was allowed to access Paul Mackenzie and effected service of summons upon him. The efforts at service are detailed in the Affidavits of Service annexed to this report.

On the date on which Paul Mackenzie was expected to appear, the Committee received two letters. First letter was dated 16th October, 2023 from the Commissioner General of Prisons, Brig (RTD) John K. Warioba, EBS who informed the Committee that Paul Mackenzie was a high risk prisoner who required substantial preparation before transportation. The second letter was dated 16th October, 2023 from Mr. Wycliffe Makasembo Advocate who is on record for Paul Mackenzie. Vide that letter, Mr. Makasembo sought a month to prepare his client before an appearance. Given the time restrictions, the Committee was constrained to conclude its report without hearing Paul Mackenzie.

Mr. Speaker,

I have elaborated in detail the Committee’s efforts to procure the attendance of crucial witnesses as well as how the Committee’s efforts were obstructed at every turn by Prof. Kithure Kindiki, the Cabinet Secretary of Interior and National Administration, Hon. Susan Nakhumicha and the Cabinet Secretary for Health who are public officers who ought to have facilitated the Committee in execution of its mandate. If anything, the Committee would have received the evidence in camera, as it did with evidence received from other stakeholders such as the National Intelligence Service, the Director of Criminal Investigations and the office of Director of Public Prosecutions. There Committee therefore strongly condemns the actions of the aforementioned Cabinet Secretaries.

Mr. Speaker,

It was not lost on the Committee that Paul Mackenzie had so many cases pending in court. With every new case filed, Paul Mackenzie was given very lenient bail terms which, in the Committee’s view were not commensurate to the crimes he was being accused of. The

Judiciary ought to explore a way to strengthen bail and bond policy guidelines to provide for more stringent bail terms for offenders who have many pending cases in court.

Mr. Speaker,

On 31st August, 2023, the Committee proceeded for a working retreat which provided it an opportunity to consider the submissions of stakeholders and the public and to draft its report and legislative proposals. The Committee thereafter, met on 18th and 19th October, 2023 to consider and adopt its final report and the draft Religious Organisations Bill, 2023. This report contains a number of recommendations based on its mandate along the thematic areas identified for adoption by the Senate.

Mr. Speaker,

The tragedy in Shakahola, Kilifi County, has so far claimed the lives of over four hundred and twenty-nine (429) people and has left a stain in our historical landscape. Kenya has experienced deaths linked to religious extremism in the past, however, the Shakahola tragedy has registered the highest number of fatalities in Kenyan history. In comparison the deaths linked to religious extremism in the past which attracted national outcry, international spotlight and some legal reforms. These incidences include—

- (1) *31st December, 1980-* The Norfolk Hotel in Nairobi was bombed which resulted in **20 fatalities and 80 people** being injured.
- (2) *8th August, 1998-* The United States Embassy in Nairobi was bombed by AL Qaeda. It resulted in **213 fatalities and 4000 people** were injured.
- (3) *28th November, 2002-* Kikambala Hotel in Mombasa which hosted 60 Israeli tourists was bombed. **13 fatalities and 80 people were injured.** The Al Qaeda claimed responsibility over the attack.
- (4) *2011-2012-* There was an upsurge in attacks which included: 17 grenade or explosive attacks which targeted police stations, night clubs, churches and bus stations. There were **48 fatalities and 200 people were injured during this period.**
- (5) *21st September, 2013-*The Westgate Shopping Mall in Nairobi was attacked by Al-shabaab militia who claim that it was retribution for the crimes committed by Kenya's military in Somalia. There were **67 fatalities and 175 people** were injured in indiscriminate mass shooting.
- (6) *2nd April, 2015-* Garrissa University College was attacked by Al-Shabaab. **148 students and security personnel were killed and 79 more were seriously wounded.**
- (7) *15th January, 2019 –* The DusitD2 Hotel left **21 people dead.**

As a result of the investigations undertaken by this Committee since its establishment on 29th April, 2023, the Committee made the following key observations and recommendations with the hope that a similar tragedy will never recur again.

Based on the investigations by the Committee and information availed to the Committee, the Committee has reasonable cause to believe that Paul Mackenzie contributed/caused directly or indirectly to the deaths of over four hundred and twenty-nine (429) people. Paul Mackenzie—

- (1) recruited hundreds of vulnerable people through agents in different parts of the country who systematically lured followers to their death through deceptive recruitment tactics which he intensified during the uncertainty and anxiety occasioned by the COVID-19 pandemic;
- (2) manipulated his followers by promising them land and financially exploited them by requiring them to sell their assets and hand over the proceeds to him;
- (3) created an armed gang which he employed to violently enforce his starvation doctrine by attacking and killing followers who changed their minds about willingly starve themselves to death;
- (4) set up a makeshift court where he held mock trials of followers who had refused to comply with starvation orders. The orders from this makeshift court would be enforced by the armed gang;
- (5) exploited the vulnerability and impressionable minds of children who had no agency and subjected them to painful and slow death by starvation;
- (6) violated the fundamental human rights and freedoms of his followers including the right to life, right to human dignity, freedom and security of persons, subjected them to physical and psychological torture and cruel, inhuman and degrading treatment, denied them access to health care, shelter and food in clear violation of Articles 26, 28, 29, 43, 53 of the Constitution of Kenya and a number of international human rights conventions;
- (7) denied children access to health care, basic education, basic nutrition, shelter and the right to be protected from abuse and neglect in clear violation of Article 53 of the Constitution of Kenya, the Children’s Act, 2022 and the Basic Education Act, 2013;
- (8) intentionally isolated his followers by moving into Shakahola Forest which is a remote inaccessible area with no access to social services and caused his followers to cut links with family members thus leaving them dependent and without protection;
- (9) was arrested in March 2023, on allegations of murder of two children who had succumbed to starvation and suffocation. Following arraignment in Court, Mackenzie was granted a measly bail of Kshs. 10,000/=. After he left protective custody, Paul Mackenzie intensified the starvation orders and with no regard for human life continued to cause the deaths and concealment of hundreds of bodies of his deceased followers;
- (10) as part of concealing the mass graves where his followers had been buried, Paul Mackenzie planted vegetables on the graves;
- (11) while his followers faced a slow and painful death through starvation, Paul Mackenzie and his gang of violent enforcers enjoyed elaborate meals as

- evidenced by menus and cooking apparatus found at his house in Shakahola Forest;
- (12) preached through a variety of media channels to disseminate his harmful doctrines including social media platforms such as You Tube;
 - (13) spread anti-government rhetoric and opposed government policy amongst his followers including preaching against deworming, national census and *Huduma Namba* which he called “*the mark of the beast*”;
 - (14) used virtual links and social media to foster foreign links with “Voice In The Desert”, an Australian cult founded by Dave and Sherry Mackay and hosted their associate in Makongeni area, Nairobi County who delivered summons echoing anti-government sentiments, particularly stating that *Huduma Namba* was “*the mark of the beast*”;
 - (15) after his arrest without any iota of remorse and in full knowledge of the impact of his heinous acts further intimidated the public in his now infamous brazen remark, “*kitawaramba*” loosely translated to mean “*it will catch up with you*”;
 - (16) acting in concert with his goons, savagely and sadistically forced starvation of his followers. During the rescue process by security agencies, some of the survivors were found locked in their houses emaciated and frail, naked and their legs and hands tied with either turbans or ropes. Paul Mackenzie also buried victims who were still living but near death as a result of starvation with a view to terminate their lives;
 - (17) strategically and systematically targeted and isolated extended families, and as a result of his atrocious actions, entire families perished leaving relatives devastated. In some instances, entire lineages were wiped out;
 - (18) radicalised and indoctrinated his followers causing them long-term psychological, physical, emotional harm which will require long-term care and rehabilitation;
 - (19) led to the stigmatisation of his followers and their families in their communities;
 - (20) systematically concealed properties and money that he fraudulently and unlawfully acquired from his victims; and
 - (21) Paul Mackenzie’s gruesome actions caused a long term negative social, cultural, ecological and environmental impact on the local community in Shakahola area.

Based on the above observations the Committee recommends that-

- (1) **The Director of Criminal Investigations expeditiously investigates the atrocious and heinous actions committed by Paul Mackenzie with a view to recommending his prosecution within thirty (30) days of adoption of this report by the Senate.**
- (2) **The Director of Public Prosecutions to prosecute Paul Mackenzie following receipt of the report from the Director of Criminal Investigations.**

- (3) Any individual directly or indirectly connected with, aided or abetted the atrocious and heinous actions committed by Paul Mackenzie be investigated by the Director of Criminal Investigations with a view to recommending their prosecution to the Director of Public Prosecution within thirty (30) days of adoption of this report by the Senate.**
- (1) The Director of Criminal Investigations in conjunction with the Department of Immigration and the Ministry of Foreign Affairs investigates any foreign person or entity connected to the activities of Paul Mackenzie and Good News International Ministries with a view of prosecuting and/or deporting said person and preventing their future entry into the Republic of Kenya within sixty (60) days of adoption of this report by the Senate.**
- (2) The Director of Criminal Investigation in conjunction with the Department of Immigration and the Ministry of Foreign Affairs investigates with a view to expel from the Republic of Kenya any foreign person or entity advancing the doctrines or activities of the entity/group/religious outfit known as ‘A Voice in the Desert’ also known as ‘Jesus Christians’ connected to one Dave and Sherry Mackay and their associates and bar their future entry into the Republic of Kenya within thirty(30) days of adoption of this report by the Senate.**
- (3) The Cabinet Secretary for Interior and National Administration submits a progress report to the Senate on the status of investigations, number of bodies exhumed, number of autopsies conducted, progress of DNA testing and matching, number of survivors reunited with family members, condition of survivors particularly children every thirty (30) days from the date of adoption of this report by the Senate until the completion of investigation and handing over of the final investigation report to the Director of Public Prosecutions.**
- (4) The Director of Public Prosecutions to pursue the prosecution of the existing charges against Paul Mackenzie as well as lodge fresh formal charges against Paul Mackenzie and other persons revealed to be culpable.**
- (5) The Cabinet Secretary for Interior and National Administration formulates and issues guidelines setting out criteria for identification of harmful religious doctrines and clear procedures for County Security Committees to monitor and expedite action on intelligence reports pertaining to individuals and religious organisations advancing harmful religious doctrines within ninety (90) days of adoption of this report by the Senate.**

Detailed observations and recommendations of the Committee can be found in Chapter Five of this report.

Mr. Speaker,

The Committee wishes to thank the Office of the Speaker of the Senate, Rt.Hon. Amason Kingi and the Office of the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Secretariat supporting the Committee included—

1.	Mr. Ahmed Odhwa	– Principal Clerk Assistant
2.	Mr. Joseph Mwangi	– Senior Clerk Assistant
3.	Ms. Clare Kidombo	– Senior Research Officer
4.	Mr. Simon Muinde	– Audio Supervisor
5.	Mr. Mitchell Otoro	– Legal Counsel
6.	Ms. Winnie Mandela	– Hansard Reporter
7.	Ms. Anne Kigoro	– Research Officer
8.	Ms. Faith Wangui	– Legal Counsel
9.	Mr. Khatib Omar	– Clerk Assistant
10.	Mr. Nathan Njenga	– Hansard Reporter
11.	Mr. Ibrahim Oruko	– Media Relations Officer
12.	Ms. Hawa Abdi	– Serjeant-At-Arms

The Committee wishes to express deep sorrow at the Shakahola tragedy. Heartfelt condolences are hereby extended to the many families who have lost loved ones in that tragedy. The Committee’s thoughts and prayers are with you as we all begin to make sense of the losses suffered by our country. The Committee wishes the survivors a quick recovery. The Committee also commends the families of victims who appeared before the Committee and bravely told their stories.

The Committee extends its profound appreciation to stakeholders and members of the public that appeared before the Committee or submitted memoranda for their well-researched and eloquent submissions on this matter. These included representatives from various Ministries, Constitutional Commissions, Independent Offices, religious organisations, Universities and other training institutions, civil society and individual members of the public.

Finally, the Committee further wishes to thank members of the public who have continued to keenly follow the proceedings of the Committee and the Media, who ensured that the country remained updated at all times throughout our investigations.

Mr. Speaker,

It is now my pleasant duty and privilege, on behalf of the Ad Hoc Committee to Investigate the Proliferation of Religious Organisations and Circumstances Leading to Deaths of more than 95 people in Shakahola, Kilifi County, to present this report pursuant to standing order 223 of the Senate Standing Orders.

Signed..........

Date.....20-10-2023.....

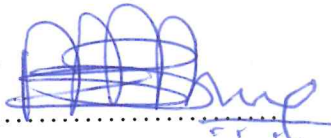
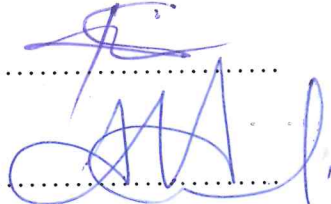
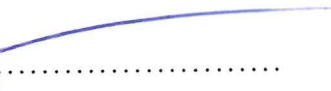






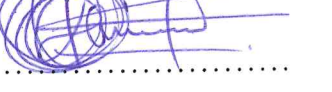
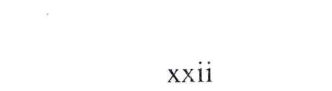
SEN. DANSON BUYA MUNGATANA, MGH, MP

CHAIRPERSON

**AD HOC COMMITTEE TO INVESTIGATE THE PROLIFERATION OF
RELIGIOUS ORGANISATIONS AND CIRCUMSTANCES LEADING TO
DEATHS OF MORE THAN 95 PEOPLE IN SHAKAHOLA, KILIFI COUNTY**

**ADOPTION OF THE REPORT OF THE AD HOC COMMITTEE TO
INVESTIGATE THE PROLIFERATION OF RELIGIOUS ORGANISATIONS
AND CIRCUMSTANCES LEADING TO DEATHS OF MORE THAN 95 PEOPLE
IN SHAKAHOLA, KILIFI COUNTY**

We, the undersigned Members of the Ad Hoc Committee to Investigate the Proliferation of Religious Organisations and Circumstances Leading to Deaths of More Than 95 People in Shakahola, Kilifi County do hereby append our signatures to adopt this Report—

- | | | | |
|-----|---|--------------------|---|
| 1. | Sen. Danson Buya Mungatana, MGH, MP | – Chairperson |  |
| 2. | Sen. Shakila Mohamed, MP | – Vice-Chairperson |  |
| 3. | Sen. Mohamed Faki Mwinyihaji, MP | – Member |  |
| 4. | Sen. Abdul Haji, MP | – Member |  |
| 5. | Sen. William Kipkiror Cheptumo, CBS, MP | – Member |  |
| 6. | Sen. Richard Onyonka, MP | – Member |  |
| 7. | Sen. Veronica Maina, MP | – Member |  |
| 8. | Sen. Hamida Kibwana, MP | – Member |  |
| 9. | Sen. Tabitha Mutinda, MP | – Member |  |
| 10. | Sen. Eddy Oketch, MP | – Member |  |
| 11. | Sen. David Wakoli Wafula, MP | – Member |  |

CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND

1.1. ESTABLISHMENT OF THE SENATE AD HOC COMMITTEE

1. On or about 25th April, 2023, the mainstream media in Kenya reported disturbing discoveries of people buried in shallow graves in a forest in Shakahola, Kilifi County. The media and security agencies attributed the deaths to a religious group known as Good News International Church linked to one Paul Nthenge Mackenzie.
2. Due to public interest generated by the matter, on Thursday, 27th April, 2023, the Senate approved a Motion that established the Ad Hoc Committee to Investigate the Proliferation of Religious Organisations and Circumstances Leading to Deaths of more than 95 people in Shakahola, Kilifi County (hereinafter referred to as “the Committee”). The Motion was moved by Sen. (Dr.) Boni Khalwale, CBS, MP under standing order 62 of the Senate Standing Orders in an amended form as follows—

“MOTION ESTABLISHMENT OF AD HOC COMMITTEE TO INVESTIGATE THE DEATHS IN SHAKAHOLA, KILIFI COUNTY

AWARE THAT under the Bill of Rights, the Constitution of Kenya grants every person the right to freedom of conscience, religion, thought, belief and opinion, and that every Kenyan has the right to manifest any religion or belief through worship, practice, teaching or observance, including observance of a day of worship.

FURTHER AWARE THAT, new religious groups, institutions or places of worship, and faith-based Non-Governmental Organizations (NGOs) must register with the Registrar of Societies, which reports to the Attorney General’s Office, yet indigenous and traditional religious groups are not required to register.

COGNIZANT THAT, there has been increased activity and membership in extremist occult religious organisations in the country.

CONCERNED THAT, the current recorded death toll of an apparent occultist religious group led by one Paul Mackenzie Nthenge, in Shakahola Village, Kilifi County has reached an alarming 95 persons, while the search for more buried victims continues;

NOW THEREFORE in exercise of its oversight function, the Senate resolves to establish an Ad Hoc committee to –

- (i) investigate the circumstances leading to the death of the followers of the Good News International Church led by one Paul Mackenzie Nthenge in Shakahola Village, Kilifi County;*
- (ii) investigate the role played by one Paul Mackenzie of the Good News International Church, his pastoral team and the Kilifi County Security Committee in aiding and abetting the deaths of the followers of the Good News International Church in Shakahola village, Kilifi County;*
- (iii) establish through the office of the Registrar of Societies, the number and activities of religious groups in the country including their registration and compliance status;*
- (iv) audit the legal and registration framework for religious organisations in the country.*
- (v) develop a legislative proposal and regulation of religious activities in the country; and*
- (vi) make any other recommendation that will prevent religious organisations from extreme indoctrination of their followers including radicalisation, spiritual and financial exploitation and submit a report to the House within 90 days.*

AND FURTHER, THAT, the following Senators be appointed to serve in the committee –

- 1. Sen. Mohammed Faki, MP.*
- 2. Sen. Danson Mungatana Buya, MGH, MP.*
- 3. Sen. Tabitha Mutinda, MP.*
- 4. Sen. Veronica Maina, MP.*
- 5. Sen. William Kipkiror Cheptumo, CBS, MP.*
- 6. Sen. Shakila Mohammed, MP.*
- 7. Sen. David Wakoli, MP.*
- 8. Sen. Hamida Kibwana, MP.*
- 9. Sen. Richard Onyonka, MP.*
- 10. Sen. Eddy Oketch, MP.*
- 11. Sen. Abdul Haji, MP. ”*

3. The Senate granted the Committee ninety (90) days to complete its investigation and table a report on or before 26th July, 2023. However, the Committee sought an extension through a motion that was adopted by the House on 1st August, 2023. The Committee was granted a thirty (30) day extension to conclude its work and table a report on or before 5th September, 2023.

1.1.1. Method of Work

4. In the execution of its mandate, the Committee conducted a number of activities which are set out below—

1.1.2. Meetings of the Committee

5. Following its establishment, the Committee held its first meeting on 3rd May, 2023 where it considered and adopted a work plan, identified stakeholders and prepared a framework for stakeholder engagement and public hearings. The Committee held a total of forty-nine (49) meetings. The Minutes of the meetings of the Committee are annexed as ***Annex 2***.
6. Following the public participation process, the Committee held a working retreat from 31st August, 2023 to 2nd September, 2023 in Machakos County which provided an opportunity to consider the submissions from stakeholders and members of the public to draft its Report and a Legislative Proposal. The Report of the Committee contains a number of observations and recommendations based on the mandate of the Committee along the thematic areas identified. The Report further includes a Legislative Proposal, namely, the Religious Organisation Regulation Bill, 2023 (***Annex 8***) which are proposed by the Committee for adoption by the Senate.

1.1.3. Public Participation and Stakeholder Engagement

7. In fulfilment of its mandate and pursuant to Article 118 of the Constitution, the Committee invited various stakeholders to submit their views. Additionally, the Committee held several public hearings publicised through the county commissioners offices in Kilifi, Vihiga, Kisumu Counties and a public advertisement in the Standard and the Daily Nation of 18th July, 2023 (***Annex 3 and Annex 4***). The Committee received both oral submissions and written memoranda from more than two hundred and eight (208) stakeholders and members of the public. The submissions by stakeholders are elaborated in Chapter Four of this Report while memoranda submitted to the Committee are provided as ***Annex 5***.

1.1.4. County Visits

8. The Committee undertook fact-finding visits to Kilifi County from 18th to 21st May, 2023 and Vihiga and Kisumu Counties from 22nd to 24th June, 2023. During these visits, the Committee received first-hand information from survivors of the tragedy, victims' families, county security committees, religious groups and civil society groups.
9. While in Kilifi County, the Committee conducted a site visit to Shakahola Forest and interacted with agencies involved in locating graves and exhuming bodies of victims. Additionally, the Committee met with the multi-agency team in charge of the Command Centre and was briefed about the operations. The Committee also visited Paul Mackenzie's compound in Shakahola Forest which operated as the headquarters for Good News International Church. The Committee further visited the Malindi Sub-County Hospital where they viewed the bodies of some of the victims. The Committee met eight (8) survivors at the Hospital and a family member of a survivor in Kilifi County.

10. The Committee also met six (6) members of the victims' families in Kisumu County and ten (10) members of the victims' families in Vihiga County.

1.2. EVENTS IN SHAKAHOLA, KILIFI COUNTY

1.2.1. Discovery of Graves in Shakahola, Kilifi County

11. The first reports on mainstream media in Kenya on the events in Shakahola, Kilifi County emerged on or about 25th April, 2023. The media reported disturbing discoveries of people buried in shallow graves in a forest in Shakahola. The media and security agencies attributed the deaths to a religious group known as Good News International Church linked to one Paul Nthenge Mackenzie.
12. According to information availed to the Committee by security agencies and other stakeholders, the local herders from the Orma Community in the Shakahola were the first to find bodies in shallow graves in the area and alerted local authorities. The second incident that led to the discovery was by a grandfather, one Mr. Francis Wanje, whose eight-year old grandson had disappeared in the area and he ventured into Shakahola Forest to look for the child. He reported the matter to a local human rights non-governmental organization, Haki Africa who then accompanied him to the forest and made further discoveries of several shallow graves.

1.2.2. Initial Response by the National Government

13. The Cabinet Secretary for Interior and National Administration declared Chakama Ranch a disturbed area vide Gazette Legal Notices No. 52 and 53 of 2023. The area was therefore declared a security zone only accessible to authorised persons. Curfew orders for the Gazetted areas were also issued for a period of thirty (30) days. The Cabinet Secretary transferred the entire security leadership in Kilifi County to pave way for investigations.
14. On 5th May, 2023, the President, H.E (Dr.) William Ruto established a Commission of Inquiry to Inquire into the Shakahola Tragedy and a Presidential Task Force on the Review of the Legal and Regulatory Framework Governing Religious Organisations in Kenya vide *Gazette* Notices 5660 and 5661 respectively.

1.2.3. Brief Profile of Paul Nthenge Mackenzie and Good News International Church

15. Paul Mackenzie Nthenge was born in 1976 in Lunga Lunga, Kwale County. He began his career as a taxi driver between 1995 and 2011 in Malindi. In 2003, he formed the Good News International Ministries. He was initially a member of the Catholic Church before joining the African Brotherhood Church (ABC) and later moved to Ushindi Baptist Church after having a fallout with the leadership at ABC. It is at this point where Mackenzie started preaching and he operated his ministry informally for seven years before it was registered and duly issued with the certificate in September 2010. In 2019,

he relocated to Shakahola forest with his three associates, being Raphael Baya, Steven Kahindi and Jonathan Baya.

1.2.4. Number of Reported Cases

16. As at 13th October, 2023, four hundred and twenty-eight (428) bodies had been exhumed and recovered from Shakahola, Kilifi County. One of the suspects died in prison custody bringing the total number of deaths to **four hundred and twenty-nine (429)**. There is possibility that the death toll may rise in subsequent exhumations.

1.2.5. Location of Shakahola, Kilifi County

17. The unfortunate events in question took place in Kilifi County in the coastal area of Kenya. The Shakahola Forest area is located approximately 100 kilometers north of Malindi Sub County and borders Tsavo East National Park. Shakahola is on the edge of human settlement which borders a forest that traverses Tsavo East National Park. Shakahola is within the Chakama Ranch owned by Chakama Ranching Company Limited (in liquidation). Paul Makenzie moved to Shakahola in 2020 after irregularly acquiring 800 acres of land, L.R. No. 13472/1 belonging to Chakama Ranching Company Limited.



Figure 1: Map of Kenya showing Counties of Kenya. Source: Government of Kenya

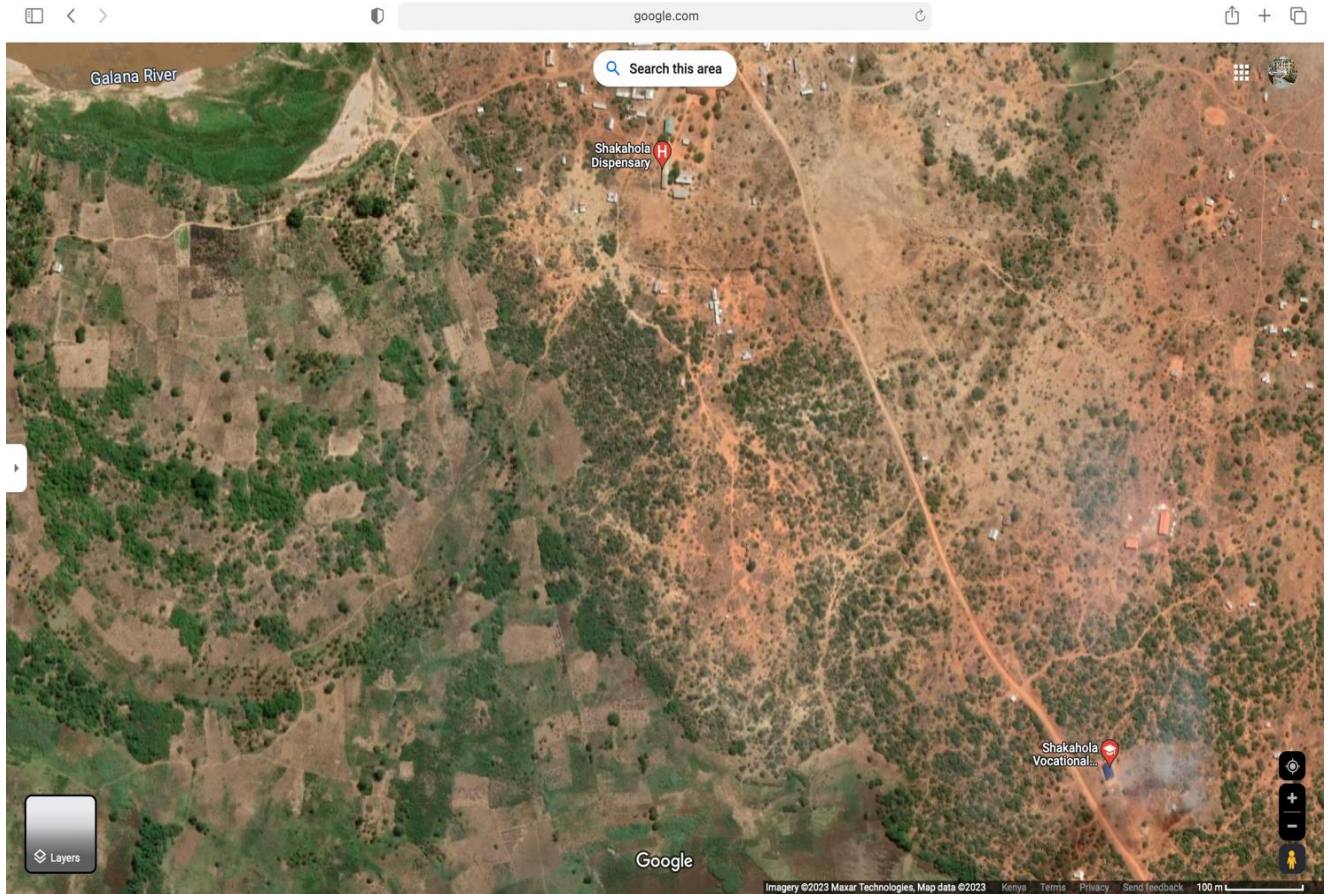


Figure 2: Google satellite photo of Shakahola area, Adu Ward, Malindi Sub-County, Kilifi County

CHAPTER TWO

CURRENT LEGAL FRAMEWORK AND POLICY ON RELIGIOUS ORGANISATIONS IN KENYA

2.0 LEGAL FRAMEWORK ON RELIGIOUS ORGANISATIONS

2.1. The Constitution of Kenya (2010)

19. Even though a significant majority of Kenyans identify with at least one religious belief, the Constitution is categorical that there shall be no state religion.¹ As the supreme law of the Republic, the Constitution of Kenya (2010) binds all persons and State organs at both levels of government. Any law, including customary law, which is inconsistent with the Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid². It can therefore be stated that Kenya is a secular state as opposed to a theocracy. The Constitution of Kenya guarantees religious freedom. Article 32 provides that—

- (a) every person has the right to freedom of conscience, religion, thought, belief and opinion;*
- (b) every person has the right, either individually or in community with others, in public or in private, to manifest any religion, or belief through worship, practice, teaching or observance of a day of worship;*
- (c) a person may not be denied access to any institution, employment or facility or the enjoyment of any right because of the person's belief or religion; and*
- (d) a person shall not be compelled to act or engage in any act that is contrary to the person's belief or religion.*

20. Article 36 of the Constitution provides for freedom of association where every person has the right to join, form or participate in the activities of an association of any kind. Additionally, that if a legislation provides for registration of an association, such registration may not be withheld or withdrawn unreasonably in which event the person shall be given a fair hearing before the registration is withheld or cancelled.

21. That said, the freedoms of religion and association are not absolute. Article 24 provides that a right or fundamental freedom can be limited by law to an extent that the limitation is justifiable and reasonable in an open and democratic society based on human dignity, equality and freedom considering all relevant factors including—

- (a) the nature of the right or fundamental freedom;*
- (b) the importance of the purpose of the limitation*

¹ Article 8, Constitution of Kenya, 2010.

² Article 2 (4), Constitution of Kenya, 2010.

- (c) *the nature and extent of the limitation;*
- (d) *the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and*
- (e) *the relationship between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.*

22. The freedom of religion has been limited in some statutes such as Prevention of Terrorism Act³ which provides *inter alia* at section 35 that subject to the provisions of Article 24 of the Constitution, the freedom of expression, media, conscience, religion, belief and opinion shall be limited to the extent of preventing the commission of a terrorism offence.

2.2. The Societies Act (Chapter 108, Laws of Kenya)

23. Religious institutions in Kenya are classified as societies and therefore regulated under the Societies Act, Chapter 108, Laws of Kenya. Section 9 of the Act states that within twenty-eight (28) days of its formation, a society shall either register or apply for exemption from registration. The application for registration shall be made to the Registrar of Societies accompanied by the prescribed Form A which is the application form, Form B containing the registered office of the society, the society's constitution and the Registrar shall register the society by entering its name in the Register of Societies. There are circumstances in which the Registrar is obligated to decline an application for registration. These are stated in section 11 (2) of the Act where—

- (a) *the Registrar has reasonable cause to believe that the society has any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Kenya, or that the interests of peace, welfare or good order in Kenya would otherwise be likely to suffer prejudice by reason of the registration of the society;*
- (b) *the society has been declared to be dangerous to the Republic;*
- (c) *the society's constitution is repugnant or inconsistent with the law;*
- (d) *the Registrar is satisfied that the society does not exist; and*
- (e) *the name under which the society is to be registered is identical to that of another registered society, resembles the name of any other society as to deceive the public or members of the society as to its nature or identity or is repugnant to any law.*

24. Section 12 of the Societies Act states that a society may be cancelled or suspended where the Registrar has reasonable cause to believe among other things that—

³ Act No. 30 of 2012

- (a) the society is likely to pursue, or to be used for, any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Kenya;*
- (b) the interests of peace, welfare, or good order in Kenya will likely be prejudiced by the continued registration of the society;*
- (c) the society has willfully, and after notice from the Registrar, contravened any of the provisions of its constitution or of its rules, or has contravened the Act; and*
- (d) the society has dissolved itself.*

25. The application for exemption from registration shall also be made to the Registrar who shall consult with the Cabinet Secretary responsible for matters relating to societies before granting an exemption. Further, any person aggrieved by the Registrar's refusal to register, cancel or suspend the registration shall pursuant to section 15 (b) of the Societies Act appeal to the Cabinet Secretary and further appeal to the High Court.

26. Part IV of the Societies Act has provisions on conduct of societies including—

- (a) requirement to have an office and a postal address which shall be disclosed to the Registrar;*
- (b) any change in officers or title of office shall be notified to the Registrar within 14 days of the change;*
- (c) the constitution of the society which shall provide for matters including the name of the society, the objects of the same, the persons to whom membership is open, the rates of joining and subscription fees, the method of expulsion of members, the titles of officers, trustees, auditors, their terms of office method of election, appointment, dismissal, suspension, frequency and quorum of meetings, custody and investment of funds and property of the society, the designation of the persons responsible for the same, purposes for which funds may be used, annual audit of accounts, and manner of dissolution of the society;*
- (d) a registered society shall obtain consent of the Registrar before amending its name, constitution etc.;*
- (e) section 23 restricts appointment of persons convicted of a crime involving fraud or dishonesty to the office of the treasurer, deputy treasurer or any other office responsible for collection, disbursement, custody or control of the funds of the society;*
- (f) section 24 prohibits any person from purporting to act as an officer of the society without being duly appointed or elected;*
- (g) section 25 requires every society to keep a register of members and their date of admission into membership;*
- (h) every society shall keep books of accounts containing the details of all money*

received and payments made by the society. The treasurer shall be responsible for the accounts. Such accounts shall be open for inspection by any member of the society or by the Registrar;

(i) every society shall at least once annually hold a general meeting inviting all members and shall at such a meeting render an account of all the money received and paid; and

(j) section 30 provides that every society shall furnish annually to the Registrar annual returns. Making of a falsified entry is an offence punishable by a fine not exceeding Kshs. 10,000/= or an imprisonment for a term not exceeding one year.

27. Any society which is not registered or exempted from registration shall be deemed to be an unlawful society. Section 5 of the Societies Act makes it an offence to manage an unlawful society which is punishable by a fine not exceeding Kshs. 10,000 or an imprisonment for a term not exceeding one year or to both.

28. Part VI of the Societies Act contains provisions on investigation of offences committed under the Act such as operating an unregistered or un-exempted society, making of false entries, contravention of the Act et cetera. The part also provides for the punishment of offenders, powers of entry, search and arrest, penalties, forfeiture of the society's property.

2.2.1. Registration of Religious Organisations in Kenya

29. As outlined in Chapter Two of this report on the legal and policy framework on religious organisations, in Kenya, religious organizations are required to register under guidelines issued by the Registrar of Societies by presenting the following documents—

- (1) A copy of the national identification card, Kenya Revenue Authority (KRA) PIN certificate and one passport photograph from each officer of the society.
- (2) Telephone numbers and Email addresses of each officer of the society.
- (3) A certified copy of a Certificate, a Diploma or a Degree in Theology from a recognized theological institution from at least one officer of the society.
- (4) Certificate of good conduct from the National Police Service from each officer of the society, pursuant to section 23 of the Societies Act.
- (5) A tax compliance or exemption certificate from the Kenya Revenue Authority from each officer of the society, pursuant to section 23 of the Societies Act.
- (6) A sworn affidavit by each officer indicating whether they are registered members or officers of other religious societies and the names of such societies.
- (7) An introduction or recommendation letter from a registered religious society in good standing signed by any two officers of such society.
- (8) List of the members of the society indicating their full names, National Identification numbers and phone numbers.

30. In Kenya, registration of religious institutions under the Societies Act does not confer a legal personality on the institution and therefore cannot hold property in their name and does not have a legal personality separate from its members. As such, it is common practice for religious institutions to incorporate a trust under the Trustees Perpetual Succession Act to hold the property.
31. Aside from registering religious institutions as societies and trusts, an applicant may register a religious organisation as a company limited by guarantee under the provisions of the Companies Act or a limited liability partnership under the Limited Liability Partnership Act. It is however notable that the Attorney General in his submissions presented to the Ad Hoc Committee on 10th May, 2023 informed the Committee that there were no religious organisations registered outside of the Societies Act.

2.3. The Trustees (Perpetual Succession) Act (Chapter 164, Laws of Kenya)

32. It is to be noted that registration of religious institutions under the Societies Act does not confer a legal personality on the institution. This means that the religious institution even though registered cannot hold property in its name and does not have a legal personality separate from its members. As such, it is common practice for religious institutions to incorporate a trust under the Trustees Perpetual Succession Act to hold the property. The registration of a religious institution as a trust grants the institution the following benefits—
- (a) the trust creates a separate legal identity from the founders, members, leaders of the religious institution thereby allowing the trust to enter into contracts with other third parties;*
 - (b) the trust holds property on behalf of the religious institution thereby protecting the property from loss;*
 - (c) it is possible to sue and be sued in its own name; and*
 - (d) the trust is eligible to apply for and obtain a tax exemption from the Kenya Revenue Authority, an exemption from payment of land rates on immovable property and an exemption from payment of stamp duty when buying land and property.*
33. A charitable trust is defined in the Act as a trust formed for the exclusive purpose of the relief of poverty, the advancement of education, religion or human rights and fundamental freedoms, or the protection of the environment or any other purpose beneficial to the general public.
34. Prior to registration, the trustees are required to prepare a trust deed containing the name, objects and constitution of the trust, the powers of the trustee, powers to appoint or change trustees, resignation of trustees, meeting of trustees, a statement as to whether the trust concerned is a registered society or an exempted society, the common seal and the regulations governing the use and custody of the common seal. The trust deed shall

be executed by the trustees and thereafter assessed for stamp duty and registered at the Lands Registry under the Registration of Documents Act.⁴ The application for registration of a charitable trust shall be made to the Principal Registrar. The application shall be in writing and shall be accompanied by the registered trust deed.⁵ Once a trust is registered under the Trustees (Perpetual Succession) Act, a certificate of incorporation is issued enabling the trust enjoy the benefits discussed above.

2.4. Other Registration Frameworks

35. Aside from registering religious institutions as societies and trusts, an applicant may register a religious organisation as a company limited by guarantee under the provisions of the Companies Act⁶ or a limited liability partnership under the Limited Liability Partnership Act.⁷ It is however notable that the Attorney General in his submissions presented to the Ad Hoc Committee on 10th May, 2023 informed the Committee that there are no religious organisations registered outside of the Societies Act.

2.5. Tax Exemption for Religious Institutions

36. In Kenya religious organisations are eligible for tax exemptions. Paragraph 10 of the First Schedule to the Income Tax Act⁸ provides that—

“...the income of an institution, body of persons or irrevocable trust, of a public character established solely for the purposes of the relief of the poverty or distress of the public, or for the advancement of religion or education—

(a) established in Kenya; or

(b) whose regional headquarters is situated in Kenya,

in so far as the Commissioner is satisfied that the income is to be expended either in Kenya or in circumstances in which the expenditure of that income is for the purposes which result in the benefit of the residents of Kenya. Provided that any such income which consists of gains or profits from a business shall not be exempt from tax unless such gains or profits are applied solely to such purposes and either—

(i) such business is carried on in the course of the actual execution of such purposes;

(ii) the work in connection with such business is mainly carried on by beneficiaries under such purposes; or

(iii) such gains or profits consist of rents (including premiums or any similar consideration in the nature of rent) received from the leasing or letting of land and any chattels leased or let therewith; and provided further that an

⁴ Chapter 285 Laws of Kenya

⁵ See section 5 and the Schedule to the Trustees (Perpetual Succession) Act

⁶ Act No. 17 of 2015.

⁷ Act No. 42 of 2011.

⁸ Chapter 470, Laws of Kenya.

exemption under this paragraph... ”

37. The exemption under the Income Tax Act is issued within sixty (60) days after application, is valid for a period of five (5) years and may be revoked by the Commissioner for any just cause.

2.6. Previous Attempts to Regulate Religious Organisations

2.6.1. Draft Societies (Religious Societies) Rules (2015)

38. In 2015, the State through the Office of the Attorney General developed the Societies (Religious Societies) Rules to address the inadequacy of the current legal framework on registration and oversight of religious organisations. This statutory instrument was intended to bring order into the religious sphere which had been accused of commercialization of religion and radicalization.
39. The Rules required religious societies with headquarters outside Kenya to register in the same name as its headquarters with the addition of the words “Kenyan Chapter”; to comply with registration requirements in the Societies Act; to specify the physical address (including the land reference number, plot number, street or road, building, floor); to have at least a third of its officers as Kenyan citizens; and to submit a work permit, alien identification card, passport photographs and letter of recommendation from the embassy for all foreign religious leaders and officers.⁹
40. For a religious society with headquarters in Kenya, there was the additional requirement to submit a copy of its constitution containing a clause clearly indicating the statement and doctrine of faith and programmes, ministries, charitable activities and education activities undertaken by the society and details of persons coordinating such activities.¹⁰ There was also the requirement to register branches which was also the same as the main society. A branch was however, before operations, required to submit a letter of authorisation from its headquarters.¹¹
41. The draft Rules also provided for the registration of an umbrella religious society. Every religious society was required to be a member of an umbrella society. Failure to register as a member of an umbrella body was an offence on the officials which upon conviction, such officials were to be liable to a fine not exceeding twenty thousand shillings and each officer was to be liable to imprisonment for a term not exceeding one year, or to both.¹² The umbrella religious society was intended to promote self-regulation and in particular¹³—

⁹ Rule 4 of the draft Societies (Religious Societies) Rules, 2015

¹⁰ Ibid Rule 5

¹¹ Rule 5(2) of the draft Societies (Religious Societies) Rules, 2015

¹² Ibid, Rules 9 (6-7)

¹³ Ibid, Rule 10

- (a) develop a code of conduct for its members;*
- (b) review doctrines and religious teachings of its membership;*
- (c) review the qualifications of a religious leader;*
- (d) review the curriculum and training offered by theological institutions and educational activities of religious societies;*
- (e) establish an internal dispute resolution mechanism;*
- (f) recommend new applications for registration of a religious society;*
- (g) provide a platform for consultation, engagement and dialogue between the government and religious societies;*
- (h) promote the sharing of knowledge amongst religious communities of their respective principles and values, with the aim to build a peaceful and just society;*
- (i) establish a forum for deliberating on areas of common interest and concern; and*
- (j) formulate plans and implement collaborative action programs based on shared moral commitments.*

42. According the draft Rules, a religious society was required to maintain a register of members in accordance with the Societies Act and update the same every year.¹⁴ Regarding the annual returns, the draft Rules stipulated that when filing annual returns, the religious society was to also submit the following particulars¹⁵—

- (a) audited accounts for the financial year;*
- (b) a revised register of members indicating changes in the number of members and providing details of any new members and the members who have ceased to be members;*
- (c) a list of all religious leaders for that year, indicating any new religious leaders;*
- (d) a declaration of the assets and liabilities;*
- (e) a tax exemption or clearance certificate;*
- (f) bank statements of all accounts operated by the religious society;*
- (g) the details of the physical address of the religious society and branches, if any, which shall include the details on the land reference number or plot number, building, floor and the street or road on which the religious society shall be situated;*
- (h) relevant operating licenses and permits as determined by the Registrar;*
- (i) a statement on the source of funding of the religious society;*
- (j) a detailed statement of the charitable, educational and commercial activities*

¹⁴ Rule 12 of the draft Societies (Religious Societies) Rules, 2015

¹⁵ Ibid, Rule 14

*carried out by the religious society which shall be duly authenticated by two thirds of the members present during the annual general meeting; and
(k) the dates when the name of the religious society was changed or the Constitution of the religious society was amended.*

43. The draft Rules also required all religious societies to appoint trustees through a trust deed¹⁶ and provided for culpability for submission of fraudulent documents.¹⁷
44. The draft Rules were however never published to acquire legal status.

¹⁶ Rule 15 of the draft Societies (Religious Societies) Rules, 2015

¹⁷ Ibid, Rule 16

CHAPTER THREE

RELIGION IN KENYA AND COMPARATIVE ANALYSIS

3.0 INTRODUCTION

45. This chapter provides a background into demographic religious affiliations in Kenya, cases of religious extremism and the government's responses. The chapter also provides for a comparative analysis on extreme religious incidences that have occurred globally and compares certain aspects with other jurisdictions including the legal and policy framework. The chapter examines the legal reforms on registration of religious organisations in Rwanda and registration of religious organisations and response to violent religious incidences in France, Uganda and Japan.

3.1. RELIGION IN KENYA

3.1.1. Demographics

46. Statistics from the Kenya Demographic Survey¹⁸ state that approximately 91.5 percent of the total population is Christian and 7.1 percent Muslim. Groups constituting less than 2 percent of the population include Hindus, Sikhs, Bahais, and those adhering to various traditional religious beliefs.

3.1.2. Incidences of religious extremism in Kenya

47. Kenya has suffered several terrorist attacks since 1980 linked to religious extremism. As part of the African Union Mission in Somalia (AMISOM), Kenya has faced retaliatory terrorist attacks from Al-Shabaab which has resulted in significant loss of life, suffering and pain as well as instability in the country.
48. Some of the terrorist attacks in Kenya linked to religious extremists include-
- (8) *31st December, 1980*- The Norfolk Hotel in Nairobi was bombed which resulted in 20 fatalities and 80 people being injured. The attack was claimed by an Arab group that said that it was seeking retaliation because Kenya allowed Israel troops to refuel in Nairobi during the raid on Entebbe Airport in Uganda four years earlier. The troops rescued hostages from a hijacked airport;
 - (9) *8th August, 1998*- The United States Embassy in Nairobi was bombed by AL Qaeda. It resulted in 213 fatalities and 4000 people were injured;
 - (10) *28th November, 2002*- Kikambala Hotel in Mombasa which hosted 60 Israeli tourists was bombed and two surface- to –air missiles fired to a chartered plane owned by Israeli based Arkia Airlines as it took off from Moi International

¹⁸ 2022 Kenya Demographic and Health Survey Key Indicators Report <https://www.knbs.or.ke/download/2022-kdhs-key-indicators-report/#> accessed on 3rd July, 2023.

Airport in Mombasa. It resulted in 13 fatalities and 80 people were injured. The Al Qaeda claimed responsibility over the attack;¹⁹

- (11) *2011-2012-* There was an upsurge in attacks which included: 17 grenade or explosive attacks which targeted police stations, night clubs, churches and bus stations. There were 48 fatalities and 200 people were injured during this period;
 - (12) *21st September, 2013-*The Westgate Shopping Mall in Nairobi was attacked by Al-shabaab militia who claim that it was retribution for the crimes committed by Kenya's military in Somalia. There were 67 fatalities and 175 people were injured in indiscriminate mass shooting; and
 - (13) *2nd April, 2015-* Garissa University College was attacked by Al-Shabaab who targeted Christians and held 700 students hostage. 148 students and security personnel were killed and 79 more were seriously wounded.
 - (14) *15th January, 2019* – The DusitD2 Hotel left 21 people dead;
 - (15) There have also been several grenade and gun attacks in Nairobi, Mombasa and Garissa Counties.
49. Parliament enacted legislation as a response to terrorist activities linked to religious extremism in the country which include the Prevention of Terrorism Act, 2012, Prevention of Organized Crimes Act, 2010 and the Proceeds of Crime and Anti Money Laundering Act, 2009.
50. In a presentation made to the Committee on 30th June, 2023, Prof. Damaris S. Parsitau indicated that Kenya has experienced the emergence of cultic groups within institutions of learning and among the general public. Though highly secretive in their operation and membership, several media reports indicate that these groups engage in gross violations of rights and freedoms of their followers including extortion, bodily harm or shaming, threats and intimidation and even death. The Kenyan society, just like other societies have therefore been affected by secret cults and radicalization. The emergence of secret cultism and radicalization has been characterized by some bizarre and violent activities which include, physical torture as a means of initiating new members, maiming and killing of rival cult members and elimination of real and perceived enemies.
51. The existence of cults, religious extremism, radicalization and cases of devil worship and satanism are not new to Kenya. For instance, in 1994, following heightened concerns over the existence of devil worship which was widely reported in the media, the then President His Excellency, Daniel arap Moi established a Committee to investigate the allegations of the existence of the cult of devil worship in Kenya and its linkage to drug abuse and other anti-social activities.

¹⁹United Nations Security Council Press Releases. Available at <https://press.un.org/en/2002/sc7602.doc.htm>. Accessed 31st August, 2023

3.1.3. Report into the Presidential Commission of Inquiry into the Cult of Devil Worship in Kenya

52. A Presidential Commission of Inquiry into the Cult of Devil Worship in Kenya was established on 21st October, 1994 by President Daniel arap Moi. The Commission was tasked to look into the matter of devil worship in Kenya and its reported linkage to drug abuse and other anti-social activities. The main purpose of the inquiry was to establish whether or not the cult of devil worship exists in Kenya; determine its effects in learning institutions and society in general and; to establish possible linkage to drug abuse and other anti-social activities; and to recommend measures necessary to deal firmly with the menace if found to exist.
53. The Commission's membership included: Archbishop Nicodemus Kirima -Archbishop Nyeri Catholic Diocese as Chairman; Rev. Bernard Muindi – Moderator, Presbyterian Church of East Africa (PCEA); Bishop David Njue; Fred Ojiambo; Rev. Jones Kaleli (Christian, African Inland Church); Crispo Willis Ongoro; Horrace Etemesi (Christian, Anglican Church of Kenya); Pastor Bonifes Adoyo, Prof. Jude Ongoga; Josiah Obuongi Okumu (Joint Secretary) and Mrs. Virgina Wairimu Maina (Joint Secretary).
54. The Commission presented its report to the President towards the end of 1995. The then President declared it would not be made public because it contained sensitive information. The report was however tabled in Parliament in 1999 by the then Minister of Internal Security, Hon. Julius Sunkuli.
55. The Commission of Inquiry into the Cult of Devil Worship in Kenya observed that religious cults was a growing concern in schools and society in general. By then, according to the Commission, it was evident that cultism was in formative stages in the learning institutions but with a very high possibility of becoming widespread. Additionally, it included numerous details of ritual murder, human sacrifice, cannibalism, and feats of magic allegedly done by using powers acquired through such acts. It also reported that Satanists had infiltrated non-indigenous religious groups and other organizations, making them doorways to Satanism.
56. The report recommended the involvement of the security agencies in the establishment of a moral agency to police the activities of the religious organisations. The officers attached to this unit the report noted, would be given specialised training on characteristics, manifestations and activities which would assist in the identification of occultic crimes. The report also recommended that the government sets up a national committee consisting of professionals, lawyers, social scientists and the clergy to prepare a comprehensive national moral code of conduct which will regulate and govern the conduct of Kenyans, especially those in leadership. The Commission proposed that a leader who fails to adhere to the code of conduct should resign.

57. The report further proposed the establishment of a national body comprising of professionals and experts on religious matters to help in scrutiny of all religious organisations seeking registration, keeping in mind the constitutional provisions regarding the fundamental rights and freedoms of others. The body would have a machinery to monitor the activities of the societies and would any be found to promote satanic practices, it would be deregistered. The report further also identified some programmes aired on television, videos and film as foreign and as such exposed Kenyans, especially the youth, to foreign influence which was detrimental to national and social values.

3.2. COMPARATIVE ANALYSIS

58. In an effort to understand circumstances that led to the tragedy in Shakahola, Kilifi County, the Committee looked at extreme religious incidences that have occurred globally and compared certain aspects with other jurisdictions including the legal and policy framework. The Committee examined the legal reforms on registration of religious organisations in Rwanda and the legal framework guiding religious organisations and response to violent religious incidences in France, Uganda and Japan.

3.2.1. RWANDA

3.2.1.1. Demographics

59. Rwanda's has a population of 13,246,394 people according to the results from the Fifth Population and Housing Census (PHC) conducted in 2022. In Rwanda, Christianity is the predominant religion with 92 percent of the total population. The majority of Rwandan residents are: Catholic (40 percent); ADEPR (*Association des Eglises de Pentecote au Rwanda*) at 21 percent; Protestants at 15 percent; and Adventists at 12 percent). Muslims account for 2 percent of the population while followers of traditional religions are less than 1 percent of the total population.²⁰
60. Article 37 of the Rwanda Constitution provides for freedom of thought, conscience, religion, worship and public manifestation guaranteed by the State in accordance with the law. Further Article 39 provides for freedom of association, this does not require prior authorization. This right is to be exercised under conditions determined by law.²¹ The Penal Code stipulates religious discrimination is punishable by five (5) to seven(7) years in prison and fines of 100,000 to one million Rwandan Francs (USD 94 to USD 943).

²⁰ National Institute of statistics Rwanda. Retrieved from https://www.statistics.gov.rw/publication/Rwanda_population_2022#:~:text=The%20analysis%20of%20the%202022,2.and%2064.5%20years%20in%202012. Accessed 12th June 2023

²¹ Constitution of Rwanda,2015

3.2.1.2. *Reforms on Religious Organisations*

61. In 2018, the Government of Rwanda closed almost nine thousand (9,000) places of worship, and more than six thousand (6,000) remained closed as at 2022.²² For instance on 1st March, 2018, the Government of Rwanda ordered seven hundred (700) churches and one (1) mosque in Kigali Province alone to suspend activities because of concerns over health and safety.²³
62. In March 2022, the Government announced it would prohibit mosques from announcing calls to prayer via loudspeaker in the morning on the grounds that the loudspeakers contravened public noise ordinances. Government officials suggested the call to prayer could be delivered at a lower volume, consistent with ordinances, or via radio or other technological tools, reiterating noise ordinances equally applied to all activities, to include concerts, parties, and other social events, whether of a religious or non-religious nature.²⁴

3.2.1.3. *Comparative Analysis on Regulation of Religious Organisations*

63. Under the law determining the organization and functioning of Religious Organizations, which include religious groups and non-governmental organizations associated with religious groups, any organization, umbrella organization, or ministry that intends to begin operations must obtain legal status from the Rwanda Governance Board.
64. The Rwanda Governance Board is a public institution established by law N°56/2016 of 16th December, 2016, generally mandated to promote good governance principles and monitor service delivery across public and private sector institutions as well as Civil Society Organizations. A comparison of registration requirements in Kenya and Rwanda is shown in the Table below—

Table 1: Comparative Analysis between Kenya and Rwanda

	REQUIREMENTS	KENYA	RWANDA
1.	Registration and Regulation	Registration done by the Registrar of Societies under the Societies Act	Registration, regulation and enforcement done by the Rwanda Governance Board established by law N°56/2016
2.	Role of District Authorities	Not a requirement	In Rwanda there is requirement for a letter issued by the District Authorities certifying that the church

²² US Department of State, 2022 Report on International Religious Freedom: Rwanda. Retrieved from <https://www.state.gov/reports/2022-report-on-international-religious-freedom/rwanda/#:~:text=Legal%20Framework,declares%20a%20state%20of%20emergency> [Accessed 12th June 2023]

²³ World Watch Monitor, *700 Churches closed down in just one province*, Rwanda. Retrieved from <https://www.worldwatchmonitor.org/coe/rwanda-700-churches-closed-down-in-just-one-province/> [Accessed 12th June 2023]

²⁴ Supra note 25

			construction meets standards of that area.
3.	Notarized Statutes (Constitution of the Organisation)	Not a requirement	Notarized statutes are a requirement
4.	Documentation required²⁵	<ul style="list-style-type: none"> • A copy of the national identification card • Kenya Revenue Authority (KRA) PIN certificate • One passport photograph from each officer of the society. • Telephone numbers and Email addresses of each officer of the society. • Certificate of good conduct from the National Police Service from each officer of the society, pursuant to section 23 of the Societies Act. • A tax compliance or exemption certificate from the Kenya Revenue Authority from each officer of the society, pursuant to section 23 of the Societies Act. 	<ul style="list-style-type: none"> • The Legal Representative and his or her Deputy Legal Representative, their responsibilities, full address and their biographical information (CVs). • A statement certifying that the Legal Representative and the Deputy Legal Representative were appointed in accordance with the organisation's statutes (Declaration) • Legal Representative should possess a Bachelor's Degree in religious studies or any Bachelor's Degree with a valid certificate in religious studies issued by a recognized institution; • A brief notarized document explaining the doctrine of the organization (Statement of faith); • Notarized minutes of the General Assembly that established the organization, approved its statutes and appointed members of the organs; • An annual action plan of the organization with its source of budget; • A document of partnership issued by one of the umbrellas of own choice; • Proof of payment of registration fee
5.	Theological qualifications	Not a requirement	The Legal Representative should possess a Bachelor's Degree in religious studies or any Bachelor's Degree with a valid certificate in religious studies issued by a recognized institution
6.	Statement of Faith/doctrine	Not a requirement	Requirement for a brief notarized document explaining the doctrine of

²⁵ It should be noted that the in the Kenyan situation the documents required are only administrative guidelines by the Attorney General while in Rwanda, those requirements are anchored in the law.

			the organization also known as a Statement of faith.
7.	Umbrella Society affiliation	Not a requirement	A document of partnership issued by one of the umbrellas of own choice
8.	Minutes of the General Assembly	Not a requirement	Notarized minutes of the General Assembly that established the organization, approved its statutes and appointed members of the organs is required for registration
9.	Annual Action Plan and Source of Funds	Not a requirement	An annual action plan of the organization with its source of budget/funds is required for registration

3.2.2. UGANDA

3.2.2.1. *Demographics*

65. According to the Uganda Bureau of Statistics(UBOS) the population in 2014 census was 35,502,100 the estimated population in 2023 is 45,562000. The census report indicates that 82 percent of the population is Christian.²⁶ The largest Christian group is Catholic at 39 percent of the population; 32 percent are Anglican; and 11 percent are Pentecostal Christian and Muslims constitute 14 percent of the population. Other religious groups, which collectively constitute less than 5 percent of the population, include Seventh-day Adventists, adherents of indigenous beliefs, Baptists, members of the Church of Jesus Christ of Latter-day Saints, Orthodox Christians, Hindus, Jews, Baha'is, and those with no religious affiliation.

3.2.2.2. *Cult Related Deaths in Uganda*

66. The Movement for the Restoration of the Ten Commandments of God was a religious movement founded by Credonia Mwerinde and Joseph Kibweteere in South Western Uganda. It was formed in 1989 after Mwerinde and Kibweteere claimed that they had seen visions of the Virgin Mary. The five primary leaders were Fr. Joseph Kibweteere, Fr. Joseph Kasapurari, John Kamagara, Dominic Kataribabo, and Credonia Mwerinde.²⁷ On 17th March, 2000 over five hundred (500) people belonging to the cult were burnt to death in Kanungu, Rukungiri (now Kanungu) District.
67. At first it was assumed that the Kanungu massacre was mass suicide by the members of the cult who were convinced about going to heaven through fire but later it was established that it was planned and executed by the cult leadership. The victims of the

²⁶ Population and Household Census Report, 2014. Retrieved from <https://www.ubos.org/datasets/> on 26th June, 2023

²⁷ Ugandan Human Rights Commission [UHRC], *The Kanungu Massacre: The Movement for the Restoration of the Ten Commandments of God Indicted* (Uganda: Uganda Human Rights Commission, 2002).

inferno included children too young to make independent decisions.²⁸ It was discovered that many more people belonging to the same cult had died and been secretly buried in other camps outside Kanungu including Bushenyi and Buziga near Kampala. By the end of March, 2000 the death toll of the cult members had risen to close to one thousand (1000) people.²⁹

68. The whole cult revolved around a belief that some people were talking to God through visions and had received warnings from the Blessed Virgin Mary about the end of the world by the year 2000 (apocalypse). The followers were not supposed to go to hell if they strictly followed the cult.

3.2.2.3. *Aftermath of the Cult Deaths*

69. Medical examiners determined that the majority of the 395 individuals who did not die in the fire had been poisoned. Early reports suggested that they had been strangled based on the presence of twisted banana fibers around their necks. After searching all sites, the police concluded that earlier estimates of nearly a thousand dead had been exaggerated even though the final death toll had settled at nine hundred and twenty four (924).³⁰
70. After interviews and an investigation were conducted the police ruled out a cult suicide and instead considered it to be a mass murder conducted by the Movement's leadership. The police believed that the failure of the doomsday prophecy led to a revolt in the ranks of the sect, and the leaders set a new date with a plan to eliminate their followers.³¹

3.2.2.4. *Inquiries into the Cult*

71. Inquiries into the cult's activities were conducted by the Police, Uganda Human Rights Commission, a Judicial Commission and a Parliamentary Committee.³²
72. The Parliamentary Committee on Defense and Internal Affairs investigated the origin and activities of the cult. In its report, the Committee discovered that³³—
- (i) *The cult had its belief that the world was coming to an end in 2000 and embarked on preparing its followers for the apocalypse.*

²⁸ Ibid.

²⁹ Ibid.

³⁰ Cult in Uganda Poisoned Many, Police Say". *New York Times*. 2000-07-28. Retrieved 26.06.2023

³¹ Fisher, Ian (2000-04-03). "Uganda Survivor Tells of Questions When World Didn't End". *The New York Times*. Retrieved 26.06.2023

³² Kanungu massacre: How government missed the red flags. Monitor. 17.03.2018 – updated 09.01.2021. Retrieved from <https://www.monitor.co.ug/uganda/magazines/people-power/kanungu-massacre-how-government-missed-the-red-flags-1745746> on 26.06.2023

³³ Ibid

- (ii) *The activities of the cult had come into question by the Government but it fell short of taking action. For instance, as early as 1994, the Resident District Commissioner (RDCs), Mr. Yoram Kamacerere refused to approve the church’s registration as an NGO, he further went ahead and closed its school. This decision was however overturned by his successor following Yoram’s transfer.*
- (iii) *Additionally, in January 2000, two months before the inferno, Mr. Conrad Baryamwisaki raised a complaint to John Okumu, an Assistant Commissioner of Police who was also a private secretary to the President responsible for Criminal Investigation Department (CID) affairs that there was an illegal existence of a cult that was kidnapping and retaining young children against their will. Mr. Okumu directed the Rukungiri District Police Commander (DPC) Patrick Mugizi to investigate the group and ascertain whether it was registered as an NGO. In his response the District Police Commander (DPC) stated that the cult was registered as an NGO, further that there were cases of children voluntarily joining the organization without the consent of their parents.*

3.2.2.5. Comparative Analysis on Regulation of Religious Organisations

- 73. The Ugandan Constitution prohibits religious discrimination and establishes there shall be no state religion. It provides for freedom of thought, conscience, and belief and the right to practice and promote any religion, as well as to belong to and participate in the practices of any religious body or organization in a manner consistent with the constitution. The Constitution also stipulates the Government may limit these rights by measures that are “reasonably justifiable for dealing with a state of emergency.” The Constitution prohibits the creation of political parties based on religion.³⁴
- 74. The Penal Code criminalizes “disturbance of religious gatherings” and “wounding religious feelings.” In October 2022, the Government adopted the Computer Misuse Amendment Act 2022, which criminalizes online hate speech, including forms of expression that “ridicule, degrade, or demean” individuals based on their religion. Persons convicted for breaching such provisions are liable to a maximum penalty of 15 million shillings (\$4,000) or seven years’ imprisonment.³⁵ A comparison on registration requirements is shown in the Table below—

Table 2: Comparative Analysis on the Legal Framework between Kenya and Uganda

	REQUIREMENTS	KENYA	UGANDA
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³⁴ Article 29, Constitution of the Republic of Uganda. 1995

³⁵ US State Department of State, 2022 Report on International Religious Freedom: Uganda Retrieved from <https://www.state.gov/reports/2022-report-on-international-religious-freedom/uganda/#:~:text=The%20constitution%20prohibits%20religious%20discrimination,manner%20consistent%20with%20the%20constitution.>

1.	Registration and Regulation	Registration is done by the Registrar of Societies under the Societies Act. There are no time limits placed on the registration.	Registration is done by the Uganda Registration Services Bureau ³⁶ and a five year operating license from the Ministry of Internal Affairs is required.
2.	Requirements for Registration	<ul style="list-style-type: none"> • A copy of the national identification card, Kenya Revenue Authority (KRA) PIN certificate and one passport photograph from each officer of the society. • Telephone numbers and Email addresses of each officer of the society. • Certificate of good conduct from the National Police Service from each officer of the society • A tax compliance or exemption certificate from the Kenya Revenue Authority from each officer of the society, pursuant to section 23 of the Societies Act. 	<p>The Bureau requires religious organizations to provide—</p> <ul style="list-style-type: none"> • a copy of a land title or proof of ownership of premises; • a copy of the board resolution to start a faith-based organization; • a copy of the memorandum and articles of association spelling out what the organization intends to do; • allotment of shareholding; and • copies of the national identity cards of the directors.
3.	Tax Exemption	Paragraph 10 of the First Schedule to the Income Tax Cap 470 exempts religious institutions from tax liability	The law exempts registered religious groups and their nonprofit activities from direct taxation.
4.	Exemptions	All Religious Organizations are required to register. There is no requirement for an operating license.	<p>The government does not require the larger and more historically established religious groups – including Catholic, Anglican, Orthodox, Seventh-day Adventist groups, and the Muslims – to obtain operating licenses.</p> <p>However, all religious organisations must be registered.</p>

3.2.3. FRANCE

3.2.3.1. Demographics

75. France has a population of 68,521,974 (2023 est.)³⁷. According to a 2020 report released by the government-appointed Interministerial Committee on Secularism, 47 percent of

³⁶ The Uganda Services Registration Bureau registers all businesses similar to the Business Registration Service in Kenya.

³⁷US Department of State, 2022 Report on International Religious Freedom: France <https://www.state.gov/reports/2022-report-on-international-religious-freedom/france/#:~:text=The%20constitution%20and%20the%20law,ideas%20contrary%20to%20French%20values> [accessed 16.06.2023]

respondents in mainland France and overseas territories and departments identify as Catholic, 3 percent Muslim, 3 percent Protestant, 2 percent Buddhist, 1 percent Jewish, 1 percent Christian Orthodox, 1 percent other religious groups, 34 percent said they have no religious affiliation and 8 percent did not respond.

3.2.3.2. *Cult Related Deaths in France*

76. The Order of the Solar Temple (Ordre du Temple Solaire, or OTS) was New Religious Movements led by Joseph Di Mambro and Luc Jouret. The group instigated suicide and murders in France, Switzerland and Canada (Quebec) as follows-
- (1) *30 September 1994*- a three-month-old baby (Christopher Emmanuel) was killed, together with his parents, who were ex-members of the group. A wooden stake had been driven through his heart, as the OTS leaders apparently believed that the baby was the Antichrist.
 - (2) *4 October, 1994*- five (5) persons were stabbed to death at the villa of the group's leader, Joseph Di Mambro, and the villa was destroyed by fire.
 - (3) *5 October, 1994* - Another fire was started at an OTS center in Ferme des Rochettes, in the canton of Fribourg, Switzerland. The authorities later discovered twenty-three (23) bodies, some of which had been shot, while others had been suffocated by plastic bags placed over their heads. A few hours later, three additional vacation chalets at Les Granges sur Salvan, in the canton of Valais, were set on fire, and another twenty-five (25) bodies were found, including those of the leaders of the Solar Temple, Joseph Di Mambro and Luc Jouret. There were fifty-three (53) victims in total in Switzerland.
 - (4) *16 December, 1995*- Sixteen (16) members of OTS from France and Switzerland gathered in a forest in France (near Grenoble) were found dead. They had been drugged, shot to death, and then placed in a circle, while two remaining members had poured gasoline over the bodies, set them on fire, and then committed suicide.
 - (5) *20 March, 1997*- Five (5) remaining members committed suicide in Quebec, Canada.
77. In total, the violence of the Solar Temple led to the death of seventy-seven (77) individuals in Canada, France, and Switzerland between 30th September, 1994, and 20th March, 1997³⁸.
78. The Order of the Solar Temple was founded in Geneva in 1984 by Luc Jouret, a homeopathic physician and New Age lecturer, and Joseph De Mambro. Its headquarters was later moved to Zürich, Switzerland. The Solar Temple traced its history to the revival of the Knights Templar (a military-religious order founded in the 12th Century) in the years after the French Revolution. In 1805 Bernard-Raymond Fabré-Palaprat, claimed to be the head of the Knights Templar and attempted to re-create the Order.

³⁸ Lewis, J. R. (2014). *Cults: A reference and guide*. Routledge.

His group split into many factions, some of which developed a belief in the imminent end of the world. Before founding the Solar Temple, one of the leaders, Jouret had belonged to a descendant of one of these factions, the Renewed Order of the Temple.

79. The key teachings of the Solar Temple were the belief that the Earth would face a worldwide catastrophe in the mid-1990s. In anticipation of this apocalyptic event, members believed it was necessary to enter a higher spiritual plane. This led to the murder-suicides witnessed in Switzerland, France and Canada³⁹.

3.2.3.3. *Aftermath of the Cult Deaths*

80. After the events related to the Order of the Solar Temple in 1994, strong anti-cult movements arose within France and the National Assembly appointed a Commission headed by Alain Gest to address the perceived dangers. The Gest Commission's 1995 report failed to offer a definition for sects, but it identified about one hundred and seventy two (172) sects it considered dangerous. The list included the third largest Christian group in France, Jehovah's Witnesses, as well as Soka Gakkai, Scientologists, and multiple evangelical, Adventist, and Pentecostal groups. Although the criteria for defining dangerous sects remained vague, and official use of the list of one hundred and seventy two (172) groups was eventually dropped, the desire to regulate them remained.
81. On 30th May, 2005, the French National Assembly passed a new law for the Prevention and Repression of Cultic Movements. The law permits the French Judiciary to dissolve a religious organization when one of its leaders, or the movement itself, is convicted of crimes. It also makes a crime out of "*the deceptive abuse of the state of ignorance or weakness*", meaning psychological manipulation⁴⁰.

3.2.3.4. *Highlights of the Report of the French National Assembly Committee of Inquiry on Cults (Adopted Unanimously by the Committee in December 1995)*

82. The Report of the Committee on the Inquiry on Cults by the French National Assembly raised several issues arising from its investigation including difficulty in defining the term 'cult'. However, it adopted a criterion of 'potential for danger', The criteria used was used by Interior Ministry (*Renseignements Généraux*) to gather information on the establishment of cults, their members and their activities. The criteria included-
- (i) mental destabilization;
 - (ii) exorbitant financial demands;
 - (iii) compulsory severing of links with the original social environment;
 - (iv) attacks on physical integrity;
 - (v) recruitment of children;
 - (vi) more or less anti-social ideas;

³⁹ Melton, J. Gordon (2023, May 5). *Order of the Solar Temple*. *Encyclopedia Britannica*. <https://www.britannica.com/topic/Order-of-the-Solar-Temple> [accessed on 19.06.2023]

⁴⁰ Le Blanc, B.H, *No Bad Sects in France*, Religion, In The News, Fall 2001, Vol. 4, No.3. Retrieved from <https://www3.trincoll.edu/csrpl/RINVol4No3/French%20sects.htm> [accessed on 15.06.2023]

- (vii) public order disturbances;
- (viii) the number of incidents involving the courts;
- (ix) possible diversion of traditional economic cycles; and
- (x) attempts to infiltrate public authorities.

83. Some of the key recommendations included the creation of a cult observatory for better understanding of cults and dissemination of knowledge; stricter application of existing laws; increased international and community cooperation which was essential noting that many dangerous cults have an international dimension. The Committee noted that cults which are prosecuted in one country often decide to transfer their operations abroad. The Committee further proposed intergovernmental cooperation be introduced, based on an exchange of information, particularly through a databank that searches for people wanted by the courts or by the administration and searches for missing persons be conducted⁴¹.
84. The report by the French National Assembly elicited some criticism, for example, the International Helsinki Federation for Human Rights declared in its 2001 report that cult abuses should be dealt with under the existing Criminal Code and other legislation and not through adopting a separate law targeted at religious minority groups. The French government initiatives against Scientologists and Jehovah's Witnesses received unfavourable notice in the United States State Department. Additionally, the parliamentary report's identification of one hundred and seventy two (172) religious groups as dangerous "sects" drew widespread criticism.

3.2.3.5. Comparative Analysis on Regulation of Religious Organisations

85. The Constitution and other laws protect the right of individuals to choose, change, and practice religion. The Upholding Republican Values law, enacted in 2021, provides authorities with broad powers to monitor and dissolve religious organizations and groups they determine to be promoting ideas contrary to French values. The Constitution includes the concept of secularism, and the Upholding Republican Values prohibits the wearing of conspicuous religious symbols in public spaces such as schools⁴². A comparison on registration requirements is shown in the Table below—

Table 3: Comparative Analysis between Kenya and France

REQUIREMENTS	KENYA	FRANCE
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⁴¹ Cults in Europe, Directorate-General for Research, Working Paper, People's Europe Series. Summary of the report of the French National Assembly Committee of Inquiry on Cults - adopted unanimously by the committee in December 1995. Retrieved from https://www.europarl.europa.eu/workingpapers/cito/w10/annex2_en.htm [accessed on 15.06.2023]

⁴²US State Department of State, 2022 Report on International Religious Freedom: France Retrieved from <https://www.state.gov/reports/2022-report-on-international-religious-freedom/france/#:~:text=The%20constitution%20and%20the%20law,ideas%20contrary%20to%20French%20values.>

1.	Effect of Legal Status	Registration is a requirement to operate	A religious organisation can operate without Legal Status however, it is difficult for a group to operate without being registered because it is not allowed to use or rent public buildings, open bank accounts, publicize events, or complete many other routine organisational activities.
2.	Registration and Regulation	Registration done by the Registrar of Societies under the Societies Act	Approvals for registration are conducted by a local prefecture and the local officers have substantial discretion on who is approved
3.	Tax Exemption	Paragraph 10 of the First Schedule to Income Tax Cap 470, exempts religious institutions from tax liability	<ul style="list-style-type: none"> • To apply for tax-exempt status, the association must provide to the prefecture its estimated budget for the year, annual accounts for the previous three (3) years or since the association’s creation, whichever is shorter, • A written justification of eligibility for the status, and the number of members of the association. • In Paris, the association must have a minimum of twenty-five (25) members. • Once granted, the association may use the tax-exempt status nationwide. • The government does not tax associations of worship on donations they receive. • If the prefecture determines an association is not in conformity with its tax-exempt status, the government may change that status and require the association to pay taxes at a rate of 60 percent on past, as well as future, donations until it regains tax-exempt status.
4.	Role of local authorities	Not a requirement	Religious groups must apply at the local prefecture (the administrative body, headed by a prefect that represents the central government in each department) for recognition as an association of worship and tax-exempt status.
5.	Categories for Registration	There are no special categories for religious institutions seeking to register under the Societies Act	<ul style="list-style-type: none"> • The government offers two main options for registering with the local prefecture- <ul style="list-style-type: none"> – Associations for Worship- They are tax exempt, and strictly for worship and spiritual instruction. – Cultural Associations- As a wide range of cultural associations (e.g., music, sports, etc.) and is not tax exempt. • An association of worship may organize only religious activities.

			<ul style="list-style-type: none"> • Although not tax-exempt, a cultural association may engage in for-profit as well as nonprofit activity and receive government subsidies for its cultural and educational operations. • Religious groups normally register under both categories. For example, Catholics perform religious activities through their associations of worship and operate schools through their cultural associations.
6.	Fiscal Oversight by the State	Tax returns are required or a Certificate of Tax Exemption. The State does not audit the activities of religious bodies.	<ul style="list-style-type: none"> • Associations in either category are subject to fiscal oversight by the state. • The Upholding Republican Values law (2021) requires audits of associations, including those that are religious in nature, that receive foreign funding of more than €153,000 (\$163,000) per year.
7.	Limitation of Activities based on Categories of registration	The Societies Act does not create categories of registration. Religious institutions engage in commercial activities as well as charitable and religious activities.	<ul style="list-style-type: none"> • To qualify as an association of worship, the group’s sole purpose must be the practice of religion, which may include liturgical services and practices, religious training, and the construction of buildings serving the religious group. • The association must also engage in public worship and respect public order. • Among excluded activities are those that are purely cultural, social, or humanitarian in nature.
8.	Application of counter terrorism legislation	The Prevention of Terrorism Act (2012) is applicable in Kenya among other laws	<ul style="list-style-type: none"> • Counterterrorism legislation grants prefects in each department the authority to close a place of worship for a maximum of six months if they find that comments, writings, or activities in the place of worship “provoke violence, hatred, or discrimination or the commission of acts of terrorism or praise such acts of terrorism.”
9.	Other Religious restrictions in France	<ul style="list-style-type: none"> • The law prohibits covering one’s face, including for religious reasons, in public places, including public transportation, government buildings, and other public spaces, such as restaurants and movie theaters, for example wearing the niqab or burqa. • The law prohibits agents of the administration, public services, public schools and companies or associations carrying out public services from demonstrating their religion through visible signs of religious affiliation, such as an Islamic headscarf, Jewish skullcap, Sikh turban, or Christian cross. • The law imposes punishment for holding political meetings in places of worship and prohibits the organization of campaigning operations for political elections in places of worship. 	

		<ul style="list-style-type: none"> • The government may temporarily close places of worship if it finds any activities therein that incite hatred or violence. • Religious education regarding one of the four recognized faiths (Catholicism, Lutheranism, Protestant Reformed Church of Alsace and Lorraine, and Judaism) is compulsory in public primary and secondary schools, although students may, with a written request from their parents, opt for a secular equivalent.
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3.2.4. JAPAN

3.2.4.1. *Demographics*

86. Japan has an estimated population of 124.2 million (2022). With respect to the religious demography, many citizens are affiliated to multiple religions, for example, it is common for Buddhist followers to participate in religious ceremonies of other religions. Religious affiliation includes 87.9 million Shinto followers (48.5 percent), 83.9 million Buddhists (46.3 percent), 1.9 million Christians (1 percent), and 7.3 million adherents of other religious groups (4 percent). The category of “other” and nonregistered religious groups includes Islam, the Baha’i Faith, Hinduism, and Judaism⁴³.

3.2.4.2. *Incidences of Cult Deaths in Japan*

87. On 20th March 1995, a group known as Aum Shinrikyo (meaning Supreme Truth) carried out a poison gas attack using a chemical nerve agent known as sarin in a Tokyo subway that killed twelve (12) people and injured many others. Aum Shinrikyo, a controversial Japanese religious group, was identified as the most likely suspect.
88. Aum Shinrikyo was founded by Shoko Asahara (originally known as Chizuo Matsumoto) in Tokyo in 1987. He was known as a charismatic leader and self-proclaimed guru. Aum Shinrikyo began as a 15-person meditation group in 1984 and grew into a movement with almost 50,000 members. Shoko Asahara’s teachings combined elements of Buddhism, Hinduism, fascination with certain scientific matters, Nostradamus, and millennialism⁴⁴.
89. The religious endeavours of the organisation expanded into an apocalyptic mission associated with the coming millennium. His apocalyptic theories were drawn from the biblical concept of Armageddon, the Buddhist notion of anarchy following the abandonment of Buddha’s wisdom, and the end-of-the-world revelations of

⁴³ U.S. Department of State, 2022 Report on International Religious Freedom: Japan. Retrieved from <https://www.state.gov/reports/2022-report-on-international-religious-freedom/japan> [accessed on 29.06.2023]

⁴⁴ Millennialism refers to the literal interpretation and belief, expressed in the book of Revelation, that Christ will establish a one-thousand- year reign of the saints on earth before the Last Judgment. More broadly defined, millennialists expect a time of super-natural peace and abundance on earth.

Nostradamus. He ordered the cult to arm itself for a cataclysmic battle, after which he assured his followers that they would be the super race⁴⁵.

90. Other incidences of violence by the organisation happened in October 1988 when a young group member died during a harsh initiation ceremony in front of Asahara and several other group members. Additionally, the killing of a member in April 1989 who had witnessed the earlier fatal incident and wanted to leave the organisation was reported. Relatives of members organized an Aum Shinrikyo Victims' Society. The Victims' Society retained Tsutsumi Sakamoto, a civil rights attorney who began to investigate a number of Aum Shinrikyo activities that he found suspicious. In response, Asahara ordered a small group of his most devoted followers to kill Sakamoto. In the course of the killing, the followers of the group felt they also had to kill Sakamoto's wife and 14-month-old son⁴⁶.
91. In July 1994, Aum Shinrikyo members released sarin near a dormitory that housed three (3) judges who were to rule on a land dispute between the group and local citizens in Matsumoto who sought to prevent the followers from entering their community. The attack killed seven (7) people and injured several hundred, including the judges.

3.2.4.3. *Aftermath of the Deaths by Aum Shinrikyo*

92. On 22nd March 1995, law enforcement authorities took action against Aum Shinrikyo. 2,500 police and soldiers executed raids on the Kamikuishiki compound and two dozen other Aum Shinrikyo sites. Many cult members were arrested but Asahara and many of his most senior aides had gone into hiding. In a taped radio broadcast, the cult leader urged his followers to "meet death without regrets" and persevere with the cult's plan for "salvation." After the attack, Asahara also sent a videotaped message to the Japanese media claiming that he and 1,700 of his followers were ill from Q fever⁴⁷. Eventually over two hundred key members were arrested while Asahara himself was finally located and taken into custody on 16th May, 1995 from his hiding place at the Kamikuishiki compound. However, a core group of seven hundred (700) entranced followers remained unfazed by these events and surprisingly, fealty and recruitment continued by the group unabated.

⁴⁵ Smithson, A. E., & Levy, L. A. (2000). Rethinking the lessons of Tokyo. *Ataxia: The chemical and biological terrorism threat and the US response*. Washington, DC: The Henry Stimson Center, 71-111. Retrieved from https://www.stimson.org/wp-content/files/file-attachments/atxchapter3_1.pdf

⁴⁶ Parachini, J., Jackson, B. A., Baker, J. C., Cragin, K., Trujillo, H. R., & Chalk, P. (2005). Aum Shinrikyo. In *Aptitude for Destruction, Volume 2: Case Studies of Organizational Learning in Five Terrorist Groups* (1st ed., pp. 11–36). RAND Corporation. <http://www.jstor.org/stable/10.7249/mg332nj.9>

⁴⁷ Q fever is a disease caused by the bacteria *Coxiella burnetii*. It naturally infects some animals, such as goats, sheep, and cattle. People can get infected by breathing in dust that has been contaminated by infected animal faeces, urine, milk, and birth products. Some people never get sick; however, those who do usually develop flu-like symptoms including fever, chills, fatigue, and muscle pain. Retrieved from <https://www.cdc.gov/qfever/index.html#:~:text=Q%20fever%20is%20a%20disease.and%20milk%20of%20infected%20animals.>

93. By mid-2000, the Japanese court system had prosecuted numerous cult figures. However, the charges did not centre on the cult's biological weapons program but various conventional crimes such as kidnapping, murder and the acts associated with the subway attack. Seven (7) cult members received death sentences and several others received lengthy jail terms of life imprisonment of between 10 to 20 years. Other trials were conducted in mid-September 2000, including those of Asahara. Some members of the cult made public apologies, and in January 2000 Aum Shinrikyo changed its name to Aleph (*first letter of the Hebrew alphabet*). Presently, Aleph continues to operate and recruit new members.
94. Shoko Asahara was sentenced to death in 2004 after he lost an appeal, and his legal team lost their appeal to have him declared mentally unfit.⁴⁸ Asahara and six (6) other members of his groups were executed in July 2018, twenty-two (22) years after the incident after all appeals were exhausted.

3.2.4.4. Legislative Reforms

95. Aum Shinrikyo lost its legal status as a religious organization in 1996 following the indictment of several hundred members. In 1996, the Japanese Diet (national legislature) amended the Religious Corporation Law to give government authorities increased oversight over religious groups and required greater disclosure of financial assets by religious corporations⁴⁹.
96. Further in 1999 the Diet enacted two laws (the Organisation Restriction Act and the Victim Relief Act) allowing the authorities to monitor and inspect without warrant facilities of groups found to have committed "indiscriminate mass murder during the past 10 years" and to uncover assets of companies associated with these groups. The 1999 laws also permitted the authorities to place restrictions on the use of properties owned by these groups if they are found to engage in aggressive recruiting.
97. On the basis of this legislation, the Public Security Examination Commission placed Aum Shinrikyo/Aleph under continuous surveillance in January 2000 for a 3-year period. Aum Shinrikyo/Aleph was required to file a report every three (3) months, listing member names and addresses. Under the same law, security officials investigated the activities of mosques periodically in 2001⁵⁰.

⁴⁸ Lewis, J. R. (2014). *Cults: A reference and guide*. Routledge.

⁴⁹ U.S. Department of State, Annual Report on International Religious Freedom for 1999: Japan, Released by the Bureau for Democracy, Human Rights, and Labor, Washington, DC, September 9, 1999. Retrieved from https://1997-2001.state.gov/global/human_rights/irf/irf_rpt/1999/irf_japan99.html [accessed 29.06.2023]

⁵⁰ United States Department of State, *U.S. Department of State Annual Report on International Religious Freedom for 2002 - Japan*, 7 October 2002, available at: <https://www.refworld.org/docid/3da3f07f1c.html> [Accessed 29.06.2023]

3.2.4.5. Unification Church and the assassination of Former Prime Minister, Shinzo Abe

98. The Family Federation for World Peace and Unification, also known as the Unification Church, received considerable media attention after the murder of former Prime Minister Shinzo Abe on 8th July, 2022. The alleged assassin of Shinzo Abe, Tetsuya Yamagami, alleged that the former Prime Minister's connections to the Unification Church were the reason why his family became impoverished. His mother, a follower of the Unification Church had donated more than 100 million yen (USD 627,000) to the group two decades earlier. Many politicians in the ruling party, Liberal Democratic Party (LDP) and a small number of the opposition were said to have ties to the church⁵¹.
99. The Unification Church, formally the Holy Spirit Association for the Unification of World Christianity (HSA-UWC), and, the Family Federation for Peace and Unification, refers to an international messianic religious movement led by the Reverend Sun Myung Moon. It was founded in 1954 and is most famous for mass weddings. Its members are commonly derided as the ‘Moonies’. Born in 1920, Moon was raised in the Presbyterian church, which eventually excommunicated him for heresy.
100. The Unification Church identifies Moon as the Messiah who will implant God’s heart of love in his followers and complete Jesus’ works. Having married and raised the “ideal” family, Moon called on members of the church to follow his example and thereby participate in God’s plan for restoration. Followers believe that they can help establish God’s Kingdom on Earth by accepting the blessing of their marriage in one of the mass wedding ceremonies for which the church has become well known ⁵².In the United States, controversy surrounding the church led to congressional hearings, and in 1982 where Moon was convicted of tax evasion. However, church leaders saw the trial as religious persecution. The church has a presence in more than 100 countries, though exact membership figures are difficult to estimate. Media reports indicate the Unification Church has approximately 600,000 followers (approximately 0.5 percent of the population) in Japan.
101. The Unification Church had long been accused of exploiting vulnerable people to secure new followers, whom it would then pressure into buying “spiritual” items, such as vases, it claimed would relieve their families of bad “ancestral karma”. According to the National Network of Lawyers Against Spiritual Sales⁵³, the Unification Church is

⁵¹ Justin M., The Guardian, How Shinzo Abe’s murder and his ties to Moonies blindsided Japanese politics, 10th January, 2023. Retrieved from <https://www.theguardian.com/world/2023/jan/10/how-shinzo-abe-ties-to-moonies-unification-church-blindsided-japanese-politics> [accessed 29.06.2023]

⁵² Melton, J. G. (2022, July 24). Unification Church. Encyclopedia Britannica. Retrieved from <https://www.britannica.com/topic/Unification-Church> [accessed 30.06.2023]

⁵³ The National Network of Lawyers Against Spiritual Sales is a group of 300 lawyers representing people, including the children of followers, who claim they have suffered financial damage because of the Unification Church.

estimated to have collected nearly USD 1 billion in donations since 1987. There have been 35,000 compensation claims against the church.

102. Additionally, following the assassination of Prime Minister Shinzo Abe, the Japan Federation of Bar Association stated it received 309 complaints against the Unification Church on its pro bono hotline in September and October 2022. The Federation reported 80 percent of complaints were regarding financial distress, with amounts lost up to more than 100 million Yen (USD 759,000). Individuals reported large debts and loss of homes and land taken as collateral because of donations to the church.

3.2.4.6. Government Response to the Assassination of Shinzo Abe

103. In October 2022, Prime Minister Fumio Kishida announced that the government would launch an investigation into the church under the “right to inquiry” clause of the Religious Corporations Act. This was based on 1,700 complaints received through a government hotline against the church. In December 2022, the Diet passed two laws prohibiting “unfair” solicitation of donations and extending the period donors may be reimbursed for such donations from five to ten years.

3.2.4.7. Guidelines by the Ministry of Health, Labour and Welfare on Abuse of Children based on Religious Doctrine

104. One of the outcomes from the assassination of Shinzo Abe and investigation into activities of the Unification Church was the guidelines published in December 2022 by the Ministry of Health, Labour, and Welfare for local governments. The guidelines outlined how religious doctrine could constitute child abuse, based on its interpretation of the Child Abuse Prevention Act. The guidelines stated that-
- a) corporal punishment for enforcing religious doctrine could constitute physical abuse;
 - b) psychological abuse towards children could include verbal threats such as-
 - (a) telling the child that they will go to hell;
 - (b) forcing participation in religious activities, including proselytisation;
 - (c) impeding the free choice of education or career;
 - (d) restricting freedom of marriage or friendship; and
 - (e) forbidding access to age-appropriate entertainment for religious reasons.
 - c) According to the guidelines, statutory child abuse includes-
 - (a) banning a child’s access to medical treatment; and
 - (b) showing children age-inappropriate sexual material⁵⁴.

⁵⁴ U.S. Department of State, 2022 Report on International Religious Freedom: Japan. Retrieved from <https://www.state.gov/reports/2022-report-on-international-religious-freedom/japan> [accessed on 29.06.2023]

3.2.4.8. Comparative Analysis on Regulation of Religious Organisations

105. The Constitution of Japan provides for freedom of religion, requires the state to refrain from religious education or any other religious activity, and prohibits compelling any person to take part in any religious practice. It does not allow religious organizations to exercise political authority or receive privileges from the State. Japan is also guided by the Religious Corporation Law which grants governmental authorities oversight over religious groups and requires greater disclosure of financial assets by religious corporations. A comparison on registration requirements is shown in the Table below—

Table 4: Comparative Analysis between Kenya and Japan

	REQUIREMENTS	KENYA	JAPAN
1.	Legal Status	Registration is a requirement to operate under the Societies Act	The government does not require religious groups to register or apply for certification, but the law exempts government-certified religious groups with corporate status from paying income tax on donations and religious offerings used as part of their operational and maintenance expenses akin to non-profit organisations.
2.	Registration Requirements	Under the Societies Act- <ul style="list-style-type: none"> • Identification card • Kenya Revenue Authority (KRA) PIN certificate • One passport photograph from each officer of the society. • Telephone numbers and Email addresses of each officer of the society. • Certificate of good conduct from the National Police Service from each officer of the society, pursuant to section 23 of the Societies Act. • A tax compliance or exemption certificate from the Kenya Revenue Authority from each officer of the society, pursuant to section 23 of the Societies Act. 	The government requires religious groups applying for corporate status to- <ul style="list-style-type: none"> • prove they have a physical space for worship; and • that their primary purpose is disseminating religious teachings, conducting religious ceremonies, and educating and nurturing believers; • an applicant must present, in writing, a three-year record of activities as a religious organization; • a list of members and religious teachers; • the rules of the organization; • information about the method of making decisions on managing assets; • statements of income and expenses for the past three years, and • a list of assets.
3.	Role of local authorities	The role of local authorities or county governments in	<ul style="list-style-type: none"> • The law stipulates prefectural governors have jurisdiction over groups seeking

		the registration of religious organization is not specified in the Societies Act	<p>corporate status in their respective prefecture</p> <ul style="list-style-type: none"> • Groups must apply for registration with prefectural governments • <u>Exceptions</u> are granted for groups with offices in multiple prefectures, which they may register with the Ministry of Education, Culture, Sports, Science, and Technology • After the Ministry of Education, Culture, Sports, Science, and Technology Minister or a prefectural governor confirms an applicant meets the legal definition of a certified religious group with corporate status, the law requires the applicant to formulate administrative rules pertaining to- <ul style="list-style-type: none"> ○ its purpose, ○ core personnel, and ○ financial affairs. • Applicants become religious corporations only after the Ministry of Education, Culture, Sports, Science, and Technology Minister or governor approves their application and the applicants subsequently register.
4.	Tax Exemption	<ul style="list-style-type: none"> • Religious organisations considered charities and are tax exempt under the Income Tax Act • Required to file tax returns 	<ul style="list-style-type: none"> • The government does not require religious groups to register or apply for certification, but the law exempts government-certified religious groups with corporate status from paying income tax on donations and religious offerings used as part of their operational and maintenance expenses akin to nonprofit organizations.
5.	Fiscal Oversight by the State and enforcement of regulations	Filing of Tax returns are requirement	<ul style="list-style-type: none"> • The law requires certified religious corporations to disclose their assets, income, and expenditures to the government. • The law further authorizes the government to investigate possible violations of regulations governing for-profit activities. • Authorities have the right to suspend a religious corporation’s for-profit activities for up to one year if the group violates the regulations.
6.	Investigation, monitoring and	There are no specific provisions on monitoring	<ul style="list-style-type: none"> • Under the “right of inquiry” provision of the Religious Corporation Act, the

	dissolution of religious organisations	and investigation of the activities of religious organisations	<p>government may investigate religious corporations suspected of committing acts that are illegal or are deemed to clearly harm the public welfare.</p> <ul style="list-style-type: none"> • A court may order the dissolution of a religious corporation if the court finds they have committed such acts. • After dissolution, the law does not hinder a religious group from continuing to practice its religion as a non-corporate entity.
7.	Other Religious restrictions	<ul style="list-style-type: none"> • The law states that schools established by the national and local governments must refrain from religious education or other activities in support of a specific religion. • Private schools are permitted to teach specific religions. However, the curriculum for both public and private schools must develop curricula in line with Ministry of Education, Culture, Sports, Science, and Technology standards. 	

CHAPTER FOUR

STAKEHOLDER ENGAGEMENT AND PUBLIC HEARINGS

4.0 ATTENDANCE BY STAKEHOLDERS

106. In fulfilment of its mandate and pursuant to Article 118 of the Constitution, the Committee conducted a comprehensive stakeholder engagement on various dates from 10th May to 24th July, 2023. The Committee held several public hearings publicised through the county commissioner’s offices in Kilifi, Vihiga and Kisumu Counties and a public advertisement in the Standard and the Daily Nation of 18th July, 2023 (*Annex 4* and *Annex 5*). The Committee received both oral submissions and written memoranda from more than two hundred and eight (208) stakeholders and members of the public. The submissions by stakeholders are elaborated in this Chapter while the memoranda submitted to the Committee are annexed as *Annex 7* and *Annex 8* respectively.
107. The stakeholders and members of the public engaged by the Committee include the following—

Table 5: List of Stakeholders and Date of Attendance

Stakeholder	Date of Attendance
1. Attorney General	10 th May, 2023
2. Registrar of Societies	
Shakahola County Visit	18 th – 21 st May, 2023
3. County Commissioner/County	
4. Security Intelligence Team	
5. Religious leaders	
6. NGOs	
7. Cabinet Secretary, Ministry of Interior and National Administration	
8. Kenya Conference of Catholic Bishops (KCCB)	9 th June, 2023
9. Evangelical Alliance of Kenya (EAK)	
10. National Council of Churches of Kenya (NCCK)	
11. SUPKEM	12 th June, 2023
12. Communications Authority Of Kenya (CA)	19 th June, 2023
13. Business Registration Service	
14. National Registration Bureau	
15. Hindu Council	
County Visit to Kisumu and Vihiga Counties	22 nd - 25 th June, 2023
16. Deputy Governor and County Executive, Kisumu County	
17. County Security Committee, Kisumu County	
18. Victims’ Families, Kisumu County	
19. Religious Leaders, Kisumu County	
20. Civil Society, Kisumu County	
21. Governor and County Executive, Vihiga County	
22. County Security Committee, Vihiga County	
23. Victims’ Families, Vihiga County	

24. Religious Leaders, Vihiga County	
25. Civil Society, Vihiga County	
26. Kisumu Holy Ghost Coptic Church	
27. Catholic University of East Africa (CUEA)	30 th June, 2023
28. African Association for the Study of Religion (AASR)	
29. Kenya Association of Professional Counsellors	
30. Kenya Psychiatric Association	
31. Law Society of Kenya	3 rd July, 2023
32. Kenya National Commission on Human Rights (KNCHR)	
33. Amnesty International	
34. Cabinet Secretary for Lands	
35. Official Receiver	
36. National Steering Committee for Nyumba Kumi	7 th July, 2023
37. Ministry of Lands	10 th July 2023
38. Kenya Human Rights Commission	10 th July 2023
39. Cabinet Secretary, Ministry of Interior and National Administration	11 th July 2023
40. Meeting with the Association for Christian Theological Education in Africa	19 th July 2023
41. Association for Christian Theological Education in Africa	
42. Meeting with The Office of the Director Public Prosecutions (ODPP)	
43. Ministry of Information Technology and Digital Economy	20 th July, 2023
44. Ministry of Repentance and Holiness	24 th July, 2023
45. Jesus is Alive Ministry	
46. Kilifi County Assembly Adhoc Committee	25 th July, 2023
47. Nyamu and Nyamu Associates	Written Memorandum submitted
48. National Gender and Equality Commission	Written Memorandum submitted
49. National Intelligence Service (NIS)	10 th August, 2023
50. Directorate of Criminal Investigations	13 th October, 2023
51. Ezekiel Odero- New Life Centre	

4.1. SUBMISSIONS BY STAKEHOLDERS AND MEMBERS OF THE PUBLIC

108. The Committee in its investigations sought for information from stakeholders and members of the public in line with its mandate. The Committee received a significant number of oral and written submissions along the following emerging thematic areas—

Table 6: Mandate of the Committee and Emerging Thematic Areas

No.	Mandate of the Committee	Emerging Thematic Areas
Mandate 1	Investigate the circumstances leading to the death of the followers of the Good News International Church led by one Paul Mackenzie Nthenge in Shakahola Village, Kilifi County	<ol style="list-style-type: none"> 1. Identity of Paul Nthenge Mackenzie 2. Education, Occupation and Family of Paul Mackenzie 3. Establishment and Registration of Good News International Church and Good News Media (K) Limited 4. Ideology of Good News International Ministries

		<ol style="list-style-type: none"> 5. Circumstances leading to the death of followers of Good News International Ministries 6. Recruitment by Good News International Church 7. Broadcasting Channels attributed to Good News International Ministries 8. Communication lines both mobile and otherwise that were registered under Mr. Paul Mackenzie's name 9. Survivors rescued from Shakahola Forest 10. Location of Chakama Ranch where Good News International Church was based 11. Ownership of Chakama Ranching Company Limited
Mandate 2	Investigate the role played by one Paul Mackenzie of the Good News International Church, his pastoral team and the Kilifi County Security Committee in aiding and abetting the deaths of the followers of the Good News International Church in Shakahola, Kilifi County	<ol style="list-style-type: none"> 1. Violations of Human Rights by Paul Mackenzie and Good News International Ministries 2. Previous complaints against Paul Mackenzie and Good News International Ministries 3. Court Cases against Paul Mackenzie 4. Response by the Kilifi County Security Committee and Local Administration 5. Response Operations at the Shakahola, Kilifi County
Mandate 3	Establish through the Office of the Registrar of Societies, the number and activities of religious groups in the country including their registration and compliance status	<ol style="list-style-type: none"> 1. Number and activities of religious groups in the country 2. Procedure for registration of religious organisations 3. Compliance with registration requirements
Mandate 4	Audit the legal and registration framework for religious organisations in the country	<ol style="list-style-type: none"> 1. Constitutional Provisions 2. Societies Act (Cap.108) 3. The Penal Code (Cap.63) 4. Legal Framework Regulating the airing of media programmes on television, radio, print media and social media and their activities
Mandate 5	Develop a legislative proposal on regulation of religious activities in the country	<ol style="list-style-type: none"> 1. Self-Regulation versus State Regulation 2. Registration of Religious Organisations 3. Institutional Framework for Registration and Monitoring of Religious Groups

		<ol style="list-style-type: none"> 4. Regulations of Operations of Religious Organisations 5. Theological Education and training for Religious Leaders 6. Standard Theological Curriculum for Theological Education 7. Recognition and Accreditation of Theological Education
Mandate 6	Make any other recommendation that will prevent religious organizations from extreme indoctrination of their followers including radicalization, spiritual and financial exploitation	<ol style="list-style-type: none"> 1. Definition of a Cult and other related terms 2. Mindset of a Cult Leader 3. Characteristics of a Cult 4. Factors Contributing to the Emergence and Growth of Harmful Religious Doctrines 5. Indicators a Person is a Member of a Cult 6. Impact of Harmful Religious Doctrines on Individuals and Society 7. Separation of Church and State in Kenya 8. Prevention of Indoctrination, Radicalisation, Spiritual and Financial Exploitation 9. Mental Health Concerns 10. Protection of Children 11. Education and Awareness 12. Establishing a Memorial Centre in Shakahola

4.2. INVESTIGATE THE CIRCUMSTANCES LEADING TO THE DEATH OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH LED BY ONE PAUL MACKENZIE NTHENGE

109. With respect to its first mandate, to investigate the circumstances leading to the death of the followers of the Good News International Church, the submissions received by the Committee fell within the following thematic areas which are discussed below—

- (1) Identity of Paul Nthenge Mackenzie
- (2) Education, Occupation and Family of Paul Mackenzie
- (3) Establishment and Registration of Good News International Church and Good News Media (K) Limited
- (4) Ideology of Good News International Ministries
- (5) Circumstances leading to the death of followers of Good News International Ministries
- (6) Recruitment by Good News International Church
- (7) Broadcasting Channels attributed to Good News International Ministries

- (8) Communication lines both mobile and otherwise that were registered under Mr. Paul Mackenzie’s name
- (9) Survivors rescued from Shakahola Forest
- (10) Location of Chakama Ranch where Good News International Church was based
- (11) Ownership of Chakama Ranching Company Limited

4.2.1. Identity of Paul Nthenge Mackenzie

110. To ascertain the identity of Paul Mackenzie, the Committee invited the National Registration Bureau who appeared before the Committee on 19th June, 2023. According to the National Registration Bureau, the identity of Paul Mackenzie is as follows—

Table 7: Identity of Paul Nthenge Mackenzie. Source: National Registration Bureau

Date of first registration	7/7/1995
Place of registration	Kwale
Name	Paul Nthenge Mackenzie
Date of Birth	1976
District	Kwale
Division	Mswambweni
Location	Vanga Lunga Lunga
Sub-location	Mwalewa
Tribe	Kamba
Sex	Male
Address	P.O Box 44 Lunga – Lunga
Ukoo	Mhombe
Father	Mackenzie Kisini
Mother	Mungele Mackenzie
Identification Card Number Issued	1*****4

111. The Committee noted that there was a discrepancy in Paul Mackenzie’s date of birth whereby the records with the National Registration Bureau indicated that his date of birth was 1976 but his identity card indicated that his date of birth was 1973. To explain the discrepancy, the National Registration Bureau submitted to the Committee that in the year 1996, there was a government policy that all registered persons should replace their identity cards to second generation cards. Accordingly, Paul Mackenzie made an application for a new identity card in September, 1996. Following the application for the second generation identity card, Mackenzie was issued with a new identity card. The National Registration Bureau also informed the Committee that upon issuance of an identity card, the Principal Registrar only keeps registration forms not copies of the physical identity cards.

112. The National Registration Bureau further submitted that since the discrepancy on the date of birth was noted on Mackenzie’s second generation identity card, corrective

measures were taken by flagging the anomaly in the system. As such in future, should Mackenzie make an application for processing of any subsequent identity card, he will be required to prove his actual date of birth.

4.2.2. Education, Occupation and Family of Paul Mackenzie

113. On 19th May, 2023 during its visit to Shakahola, Kilifi County the Committee met the County Security Committee at the County Commissioner’s Headquarters. The County Security Committee comprised the County Commissioner, the Administration Police Commander, the County Police Commander and representatives of the Regional County Directorate of Criminal Investigation and the National Intelligence Service.
114. The Kilifi County Security Committee informed the Committee that Paul Nthenge Mackenzie was born in Lunga Lunga Sub-County, Kwale County. Paul Mackenzie has nine (9) siblings, three (3) of whom are deceased. He sat for his Kenya Certificate of Primary Education in 1990 at Mwalewa Primary School. In 1994, Mackenzie sat for his Kenya Certificate of Secondary Education at Lukole Secondary School where he obtained a mean grade of C- (minus). After his Secondary School he travelled to Tanzania. Paul Mackenzie thereafter returned to Kenya and settled in Furunzi, Malindi in 2003 where he worked as a taxi driver.
115. The County Security Committee further informed the Committee as follows—
 - (a) in 2002, Paul Mackenzie married his first wife and had two children aged twenty(20) and fifteen (15) years prior to her death in 2009;
 - (b) in 2010, he married his second wife and had four (4) children prior to her death in 2018 ; and
 - (c) in 2019, he married his third wife with whom they have one child.

Who is Paul Nthenge Mackenzie?

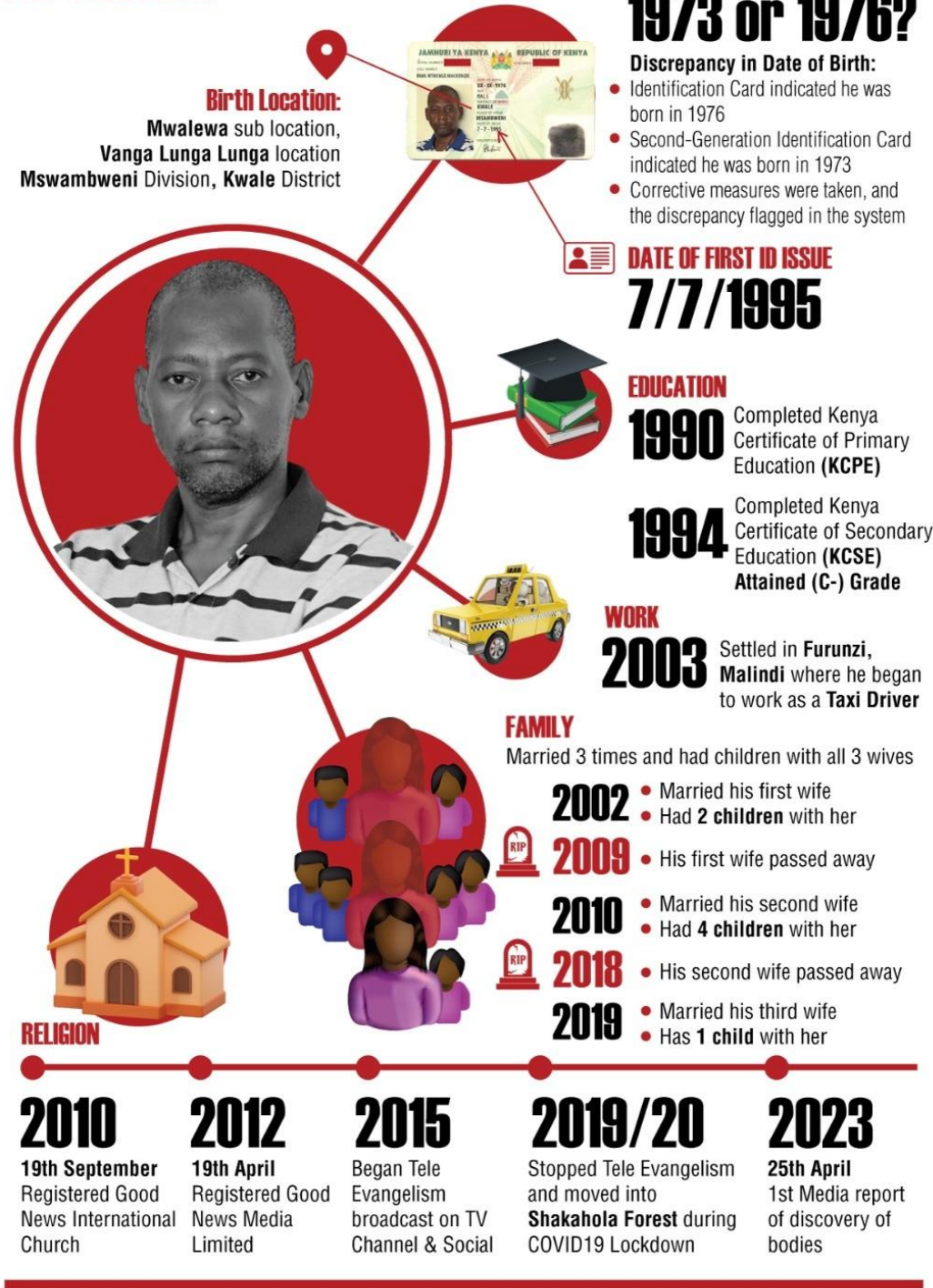


Figure 2: Infographic on the identity of Paul Nthenge Mackenzie

4.2.3. Establishment and Registration of Good News International Ministries and Good News Media (K) Limited

116. The Attorney General Hon. Justin Muturi, EGH, the Acting Registrar General, Ms. Jane Joram and the Registrar of Societies Ms. May Goreti Nyariki appeared before the Committee on Wednesday, 10th May, 2023 at Parliament Buildings. The Attorney General submitted that Good News International Ministries was registered on 22nd September, 2010 and issued with Certificate of Registration No. 32918 in file No. 58868.
117. The physical location of the Church at the time of registration was stated as Plot No. 121, Ganda Road, Malindi, with Postal Address 579-80200. The objectives as per the Constitution submitted were to pray for the sick and help needy people, start and operate branches of the society, train and teach leaders, organize prayer meetings, publish Christian literature, conduct marriages, dedications of children, baptism and burial services, operate conference centres, amusement parks, entertainment and recreational centres. Good News International Ministries was registered as a non-profit making and non-political society. The following were the office bearers at the time of registration—

Table 8: Office bearers of Good News International Church as Registered by the Registrar of Societies

	Name	Position
1.	Paul Nthenge Mackenzie	Chairman
2.	Raphael Riziki Baya	Vice-Chairman
3.	Smart Derry Mwakalama	Secretary
4.	Lucia Wanjiku Kinuthia	Assistant Secretary
5.	Sebastian Kachero	Treasurer
6.	Alexander Mwema Masango	Assistant Treasurer

118. In May 2022, there was an attempt to change of the name and the office bearers of Good News International Ministries. However, the same was not successful due to non-compliance with the relevant requirements.
119. It should be noted that at the time of appearing before the Committee, the Attorney General informed the Committee that the Registrar of Societies had issued a notice of intention to cancel the registration of the Church had been issued under Section 12 (1)(a) of the Societies Act on the ground that the Registrar had reasonable cause to believe that Good News International Ministries' objects are likely to pursue, or to be used for unlawful purpose or for purposes which were prejudicial to or incompatible with peace, welfare or good order in Kenya.
120. Mr. Kenneth Kathuma, the Director- General of the Business Registration Service (BRS) appeared before the Committee on 19th June, 2023 and informed the Committee

that Paul Mackenzie had registered a company namely Good News Media (K) Limited. The company was a private limited company registered on 19th April, 2012 and with an office address being Land Reference No. 212 Tanda Road, Malindi. The company's share capital was Kshs. 100,000 divided into 1,000 shares of Kshs. 100 each. The directors and shareholders as at 16th June, 2023 were Shedrack Musau Mutiso and Paul Nthenge Mackenzie each with 50 percent shareholding of the total 600 shares issued.

4.2.4. Ideology of Good News International Ministries

121. The Cabinet Secretary for Interior and National Administration, Hon. (Prof.) Kithure Kindiki appeared before the Committee on 12th May, 2023 and 11th July, 2023 and submitted that prior to the registration of the Good News International Ministries, Paul Mackenzie had established his church as the Good News International Church in 2003 and started teaching his followers over the years on denouncing formal education, government authority and health care.
122. Mackenzie held prayer sessions at the house of his follower David Kahindi before constructing the church's prayer house at Furunzi area in Malindi Sub County, Kilifi County in 2004. Following frequent encounters with security agencies and altercations with residents, Mackenzie closed down the church premises in 2019 and sold off all its assets. The Times Television Channel was sold to Ezekiel Odero of the New Life International Ministry. He thereafter moved the church operations to Shakahola Forest in 2020 after irregularly acquiring 800 acres of land belonging to Chakama Ranch. He promoted extreme indoctrination of his followers leading to radicalization, spiritual and financial exploitation. The Cabinet Secretary further stated that according to information in the Ministry's possession, it was yet to be established whether there were sister churches and preachers outside the country. However, information availed to the Committee indicated that there were affiliate branches of Good News International Ministries in Makongeni in Nairobi County, Mbui Nzau and Ndeini in Makueni County, Sameta in Kisii County, Usoma in Kisumu County and Bombolulu and Jomvu Kuu in Mombasa County.
123. The Kilifi County Security Committee submitted that Paul Mackenzie's teachings were mostly based on the doomsday or end-times teachings. He preached that the end times or doomsday would be in August 2023. In preparation for the end times, his followers were asked to fast and refrain from food in order to meet Jesus. The children were scheduled to die first followed by the young people followed by women. The men were to delay their death to help bury bodies following which they would die. The last person to die would be Paul Nthenge Mackenzie together with his family.
124. The Committee was further informed that Paul Mackenzie chose the Shakahola Forest area due to its remoteness and seclusion. Once inside the villages established by Mackenzie, followers were not allowed to leave the area, nor interact within themselves. The villages in Shakahola forest were sixteen (16) kilometers away from

other nearest village. Additionally, the followers were required to destroy vital documents among them national identity cards, birth certificates, certificates of title to property, academic certificates and marriage certificates.

125. The Kilifi County Security Committee submitted that once their national identification documents were destroyed, followers of Mackenzie acquired new names upon joining the Shakahola community. This created problems during identification of survivors who denied their previous identities.
126. The Malindi Human Rights Centre, Coast Civil Society Group, Fast Action, Haki Africa, Helping Hands, and the Institute for Land Governance and Human Rights (INLAGHR) appeared before the Committee in Malindi, Kilifi County on 19th May, 2023 and submitted that radicalization was initially deemed as a Muslim problem but had morphed to exploitation of communities by churches. They submitted to the Committee that members of the Good News International Ministries went into the forest mostly during the COVID-19 pandemic where they were brainwashed that the world was coming to an end and therefore they needed to fast to meet the Lord. The fasting was done in specific villages in the forest after new converts had handed over their possessions to the church leadership. The radicalization and indoctrination was progressively done on the followers upon joining the Church with the final step being fasting to death.
127. The Kisumu County Security Committee appeared before the Committee on 23rd June, 2023 and submitted that the doctrine of Good News International Church involved all matters of faith as they prepared for the second coming of Jesus Christ including but not limited to abandonment of earthly materials.
128. Information availed to the Committee established that Paul Mackenzie was influenced by Dave Mackay and Sherry Mackay from Australia who are founders of a cult movement known as the Voice in the Desert. The teachings of this cult include forsaking all private ownership, surrendering earthly possessions and relocating to an isolated communal place where members serve one master. The foreign links were largely established through virtual links and social media. However, in 2019, Paul Mackenzie hosted an associate of Dave Mackay who gave a sermon in his church at Makongeni within Nairobi City County. The guest speaker delivered sermons echoing anti-government sentiments, specifically Huduma Number being the mark of the beast. He also urged followers to abandon earthly possessions and follow Paul Mackenzie to the “promised land”, which was later located in Malindi.

4.2.5. Circumstances leading to the death of followers of Good News International Ministries

129. The Kenya National Commission on Human Rights (KNCHR) submitted that there was an intense recruitment of followers over the COVID-19 period in 2020. This was followed by a call from Mackenzie directing his followers to begin fasting in readiness for the end of the world and their transition to meet Jesus. The children were to be the first to starve followed by women then men and finally Mackenzie would ascend to heaven from the centre of Malindi.
130. Based on witness accounts and their own investigation, the KNCHR submitted that Paul Makenzie had recruited a group of armed militia (both men and women known as “enforcers”) who were to supervise and enforce the starvation and eventual death of the followers. The “enforcers” dug shallow graves where they buried those who had succumbed to starvation. Those who defied the directive to fast or attempted to escape were either strangled or clobbered to death by the “enforcers”. However, a number of people including children managed to escape to safety where they were rescued by Orma herders and neighbouring communities.
131. In its visit to the site of the Shakahola tragedy in Kilifi County, the Committee viewed the shallow graves and received a briefing from the Command Centres from security authorities.



Picture 1: Chairperson, Sen. Danson Mungatana, Sen. Veronica Maina, Sen. Tabitha Mutinda, Sen. Eddy Okech and Sen. William Cheptumo at the inspection of the mass gravesite by the Committee accompanied by the Head of Command Centre, Senior Assistant Inspector General, Peter Ndung'u in Shakahola, Kilifi County. Source: Senate of Kenya

132. This account was corroborated by local civil society and non-governmental organisations during the fact-finding visit to Kilifi County. They informed the Committee that Paul Mackenzie had an enforcement/vigilante group guarding the forest from outside infiltration whom he used to enforce his directives. In particular, two motorcycles (*boda bodas*) were torched by the vigilantes during an attempt to infiltrate the forest. The matter was reported at Lango Baya Police Station. They further informed the Committee that certain areas inside the forest were named after biblical cities for example Sidon was where strong cult members were taken. Other villages were named Jericho, Bethlehem, Babylon among others. In addition to starvation of followers, lactating mothers were not allowed to breastfeed their young ones.
133. Mr. Francis Wanje, a teacher at St. Charles Lwanga in Chagamwe, Mombasa County was termed as the initial whistleblower of the Shakahola tragedy by local civil society organisations and the Kenya National Commission on Human Rights. He appeared before the Committee in Kilifi Town on 19th May, 2023 and submitted that his daughter, son-in-law, the son-in-law's mother and three grandchildren went missing in Shakahola. He stated that his daughter resigned as a community worker while his son-in-law who was a General Service Unit (GSU) officer of the National Police Service resigned from the Service.
134. Mr. Wanje further submitted that his son-in-law prevented his 8-year old grandson, from attending school. Through his persistent efforts and assistance from local civil society groups, he was able to rescue the 8-year old grandson on 17th March, 2023 from the forest while the other two had starved to death. Unfortunately, he was informed by the 8-year old grandson that his other two grandchildren died in the forest on 15th March 2023 and 16th March, 2023. The whereabouts of his daughter, son-in-law and son-in-law's mother remained unknown.
135. Mr. Wanje indicated that the rescued grandson was about to be buried alive on the 17th March, 2023 before he was rescued. During the rescue he was accompanied to the Shakahola Forest by Mr. Victor Kaudu from the Malindi Human Rights Centre, after police in the area failed to accompany him into the forest. The account of Mr. Wanje was to a large extent corroborated by the Kenya National Commission on Human Rights.
136. In their account, Kenya National Commission on Human Rights stated that two former followers who having broken away sought to go and rescue three children belonging to an ex-GSU officer who was a staunch follower of the cult and the alleged leader of the enforcers. The two former members and Mr. Wanje first reported the matter to a local organisation who then reported Lango Baya Police Station and Malindi Police Station but no action was taken. The police reportedly said Shakahola forest was very dangerous because of Paul Makenzie's armed enforcers.

137. Desperately, the two members and Mr. Wanje decided to go rescue the children accompanied by a local human rights defender and two hired policemen. The two police officers however abandoned them midway citing fear for their lives. Mr. Wanje and the human rights defenders nevertheless went in and found a five-year-old child tied to a tree with wires. The child was frail and emaciated and when rescued, the child directed Mr. Wanje and the human rights defenders to two fresh graves of his siblings a few yards from where he was tied.
138. As they were leaving they were accosted by the vigilantes led by the ex-GSU officer. The three were threatened by the militia but were spared after Mr. Wanje pleaded with the ex-GSU officer. After leaving the forest, the three went and reported the matter once again to Lango Baya Police Station. The Officer-in-Charge of the Station (OCS), Lango Baya referred the matter to his counterpart in Malindi Police Station. It is following this incident that the OCS Malindi ordered the arrest of Paul Mackenzie and the media exposed the killings. The ex-GSU officer has since been arrested and the two children exhumed.



Picture 2: Vice Chairperson, Sen. Shakila Abdalla, Sen. Hamida Kibwana, Sen. Richard Onyonka with security officers at the Shakahola exhumation site during the site visit in July 2023.

Mr. Wanje's Story

Initial Shakahola Whistleblower



Mr. Francis Wanje, a teacher in Changamwe, Mombasa County.



17th March, 2023

Through his persistent efforts and assistance from local civil society groups, he was able to rescue the 8-year old grandson who was about to be **buried alive**.



Unfortunately he is informed by the grandson that his other two grandchildren died in the forest on **15th March, 2023** and **16th March, 2023** respectively.

22nd March, 2023

Paul Mackenzie is arrested by the police.



21st March, 2023

Mr. Wanje obtains a Court Order requiring the Government Pathologist & the investigators from the DCI in Malindi to exhume the bodies of two minors for the purpose of a **post-mortem analysis & DNA sampling** to ascertain the **cause of death** of the minors.

The Court Order required the Malindi Sub County Commander and the OCS Lango Baya Police Station to provide security during the exhumation. Despite the Court Order and **numerous visits** by Mr. Wanje to the various security offices in Malindi Sub County, **no exhumations happened**.

23rd March, 2023

Paul Mackenzie released from custody on a Kshs 10,000/- Cash Bail.



19th May, 2023

He appeared before the Committee in Kilifi Town and submitted that his daughter, son-in-law, the son-in-law's mother and three grandchildren went missing in Shakahola

He stated that;

- His daughter resigned as a community worker while his son in law resigned from the General Service Unit(GSU)
- Mr. Wanje submitted that his son-in-law prevented his 8-year old grandson, from attending school.



23rd March, 2023

Mr. Wanje and a crew from Nation Media Group went into the forest.

They were accompanied by one of the former followers of Paul Mackenzie who had helped identify the homestead of his daughter and son-in-law in the Shakahola forest.

While in the forest, the group was attacked by a gang of about 15 men armed with crude weapons. They beat up the former church member & carried him to Lango Baya Police Station.



12th April, 2023

Mr. Wanje received help from the County Commander of Police who instructed a different set of police officers to visit Shakahola forest to effect the Court Order.

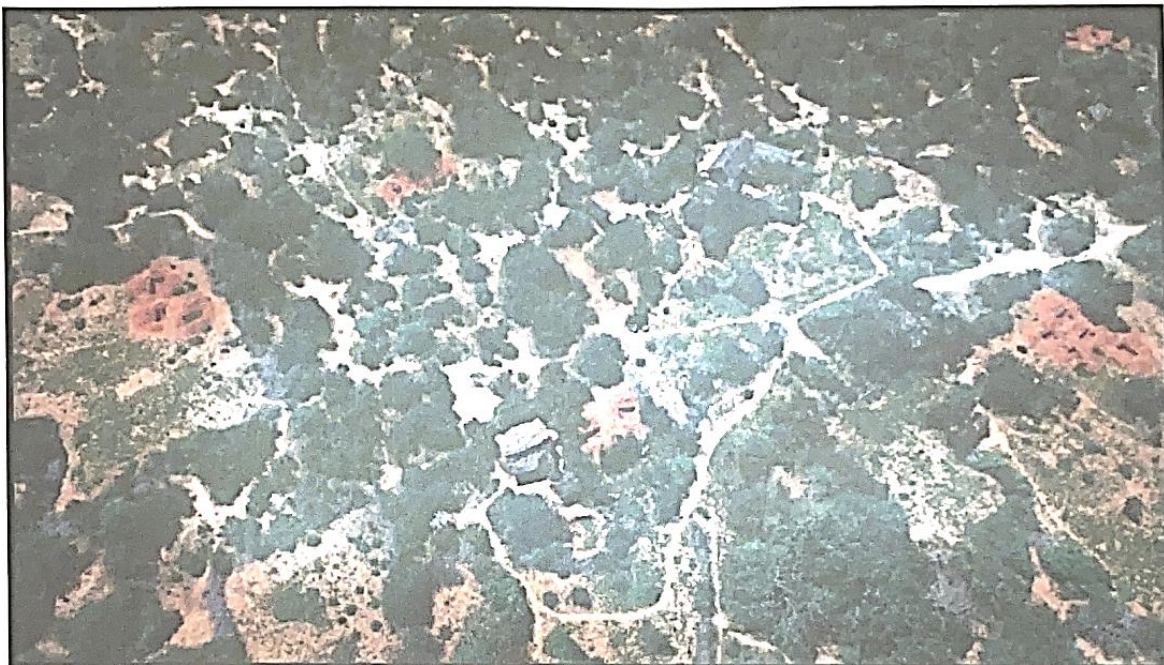
14th April, 2023

The police went into the forest and that is when the full extent of the tragedy was discovered



Figure 3: Infographic on Mr. Wanje's Story

139. The Kilifi County Security Committee also submitted that Paul Mackenzie was usually guarded by a group of goons armed with crude weapons who would enforce Mackenzie's rules in the villages.
140. In his submission before the Committee on 26th May, 2023, the Cabinet Secretary for Interior and National Administration stated that Paul Mackenzie employed vicious armed men, armed with crude weapons to supervise the starvation to death and would hang around the families because most of the fasting was in families living in temporary structures. These enforcers would supervise the starvation and in the event anyone changed their mind, they would be killed using blunt objects.
141. The Cabinet Secretary for Interior and National Administration further informed the Committee that autopsies of exhumed bodies revealed that while many of the victims died of starvation, others also died through asphyxiation (lack of oxygen). Some bodies showed signs of strangulation by bare hands, others using wires and other apparatus while others were hit with blunt objects. He further submitted that the enforcers were not required to fast. There was evidence that the enforcers prepared meals on the grave sites. In one of the structures believed to be Mackenzie's residence, an organised menu of well-balanced meals.



Picture 3: Aerial images showing fresh grave sites as red spots of turned earth surrounded by trees. Source: National Intelligence Service, Kenya

4.2.5.1. Results from Autopsies

142. The Kenya National Commission on Human Rights informed the Committee that as at 23rd June, 2023 DNA analysis, radiology scans and autopsies had been completed for 316 bodies, the majority of whom were female. However, the sex of some of the bodies could not be determined due to the severity of the decomposition.
143. The autopsies were led by the Chief Government Pathologist, Dr. Johansen Oduor working together with experts from the Government Chemist and Homicide Detectives from the Directorate of Criminal Investigations. Before the commencement of autopsies, the Committee was informed that each body was subjected to a radiographic examination for internal assessment of organs, dental analysis and a general check for the presence of foreign objects or any other anomalies. All body bags had identification tags assigning each body a number, the date the body was exhumed and the gravesite where it was exhumed from.
144. After the radiography, the bodies were opened for physical examination and extraction of samples for DNA and toxicological analysis. The samples were then preserved in clearly labeled containers. The entire DNA profiling, radiography and autopsies were captured in both video and still photographs.
145. The autopsies revealed that the majority of victims died of starvation, while some had signs of manual strangulation and blunt trauma injuries. Most of the bodies were severely decomposed making it difficult to ascertain the cause of death or the sex of the victims. As of 23rd June, 2023, the Committee was informed that there was no single case of gunshot wounds or organ harvesting as alleged on social media platforms. The Chief Government Pathologist, addressed the media every day to brief the country on the daily status of the outcomes from the autopsies.
146. The Kenya National Commission on Human Rights submitted that based on its monitoring of the autopsies and documentation, it was satisfied that the autopsies were conducted transparently and professionally and in line with the laid down standard operating procedures. Kenya National Commission on Human Rights also noted that a morning counseling session was done for all officers participating in the autopsies which was highly commendable given the psychological effects of the exposure to the putrid stench of the heavily decomposed bodies.

4.2.6. Recruitment of followers as by Good News International Ministries

147. The Kenya National Commission on Human Rights informed the Committee that hundreds of people from across Kenya were lured to Shakahola Forest by Paul Mackenzie on the promise of cheap and affordable arable land. The majority of these followers had abandoned their previous occupations and sold their entire belongings

from their original homes and gave money to Paul Mackenzie in exchange for land which was being sold for as low as Kshs. 2,000 per acre.

148. Kenya National Commission on Human Rights further submitted that after being allocated land in Shakahola Forest, the followers built makeshift grass-thatched mud structures with neither road networks nor social amenities such as schools and health facilities. The influx of people into the forest intensified during the COVID-19 period in 2020.
149. The Cabinet Secretary for Interior and National Administration submitted to the Committee that the only human activity which would happen in the area occasionally was herding of camels and livestock by herdsmen from neighboring counties during drought. The Committee was also informed that a significant number of the people lured into the forest were sourced from other parts of Kenya since the local people were aware of Paul Mackenzie's activities and disagreed with his teachings. As a result, Paul Mackenzie recruited followers from other parts of the country.



Picture 4: Chairperson, Sen.Danson Mungatana and Sen. William Cheptumo with a security officer in one the mud houses at the Shakahola exhumation site

150. In response to the tragedy, the Kilifi County Assembly formed a special committee named “*Ad Hoc Committee to Investigate Shakahola Massacre in Adu Ward, Kilifi County*”. The Committee met the Kilifi County Assembly Committee on 25th July,

2023 which submitted that most of the affected families were not indigenous to Kilifi County. The Kilifi County Assembly Committee's findings also revealed that vulnerability, desperation of people, increase in mental health issues, chronic diseases, poverty and misfortune led the victims to search for miracles and fall prey to extremism.

151. The Kisumu County Security Committee informed the Committee that followers of Paul Mackenzie in Kisumu County were directed to meet an unidentified person based at Gita Prayer Centre in Kajulu, Kisumu East, who lured them to travel to Malindi from Luanda Bus Stage in Vihiga County, for alleged spiritual emancipation and nourishment. They were promised that upon arrival, they would receive high spiritual guidance and fellowship at Good News International Ministries besides being offered free housing and meals.
152. On their part, the Vihiga County Security Committee informed the Committee that most followers of Good News International Ministries in Vihiga County were brainwashed and enticed by unknown agents to go to Kilifi for prayers. Most people who were exposed to the teachings of Paul Mackenzie had relatives who resided in the coastal areas including Voi, Malindi and Kilifi. In addition, the County Commissioner, Kilifi County informed the Committee that most people in Vihiga County were known to be religious and could easily fall prey to the doctrine taught by Good News International Ministries. Additionally, Good News International Ministries did not have a physical church in Vihiga County but used agents to recruit its followers.
153. In Kisumu County, the Committee met with five (5) families who believed their missing family members were followers of Good News International Ministries and had travelled to Shakahola, Kilifi County.
154. In a meeting held on 23rd June, 2023, a witness (woman, 47 years) from Nyakach Sub-County, Kisumu County narrated to the Committee how her son, Eric (32 years) who worked as a casual labourer in construction sites in Likoni, Mombasa County disappeared in 2022 and could not be reached on his phone. She informed the Committee that when her son visited her in 2022, he exhibited unusual behaviour. He refused to eat and when his mother asked why he rejected food, Eric informed her that he did not need to eat because eating was being dependent on earthly things. He was not concerned with earthly things because "they were going to see Jesus". Eric also informed the witness that he had bought a piece of land and had built a house, a claim that the witness later believed to be false after learning about Paul Mackenzie.
155. Eric was married with two children (girl aged 10 years and a boy aged 4 years) and went into the forest with his wife and two children. It was believed that his wife died in Shakahola while the whereabouts of her two grandchildren were unknown. When the news of the tragedy hit headlines, the witness travelled to Shakahola to find the two grandchildren and her son. She reported the matter to Malindi Police Station and gave

a DNA sample for testing. At the time of the interview with the Committee, the witness was still awaiting results. An excerpt from the Senate Hansard is included below-

Table 9: Excerpt from Senate Hansard, 23rd June, 2023, Kisumu County

[Shahidi] : Hata sio mgonjwa. Sasa nikimuuliza kwani ni nini? Alikuwa anasema, ‘Mama bado unategemea vitu vya duniani ndio unaongea hivyo? Sisi tunaenda kuona Yesu.’ Nilikuwa nasikia ni Mackenzie. Nikamuuliza ‘kwani wewe huwa unaomba na Mackenzie?’ Akasema hawaombi Mackenzie, wanaomba Yesu. Alikuwa anajibu hivyo. Ndio nilikuwa---

Sen. Veronica Maina: Hapo ndio ulidhania huyo Mackenzie?

[Shahidi]: Ndio.

Sen. Veronica Maina: Ulijuaje sasa last year kuwa hapatikani tena?

[Shahidi] Nikiona kama hayuko, hakuji, hata---

Sen. Veronica Maina: Ulikuwa na simu yake?

[Shahidi]: Ndio. Nilikuwa nampigia simu. Wakati huo hashiki simu.

Sen. Veronica Maina: Simu inaingia?

[Shahidi]: Hata haiingii. Nilikuwa nafikiria sasa ni nini. Ndio maneno ya Mackenzie yakatokea nikaamua kwenda huko. Nilikuwa naenda kuona ni nini mbaya kwa sababu alikuwa ananiambia wanaomba na Mackenzie. Hata bibi yake alikufa mwaka jana juu ya hiyo kanisa.

Huyu kijana alikuwa amebaki na mtoto. Alikuwa anadanganya amenunua shamba akajenga huko. Nilimuuliza kwanini anajenga huko. Akasema ‘mama, nishapata shamba.’ Hata wewe nitakuja kukuchukua niende nikujengee huko. Nikanyamaza hivyo tu. Baadaye, nilikuwa namuuliza kwani umejenga wapi? Alikuwa ananidanganya ni Voi. Si Voi iko nyuma ya Kaunti ya Mombasa?

Mwezi wa nne mwaka huu ndio nimeona maneno ya Shakahola yametokea. Nikaamua kwenda huko. Sikupata huyu kijana wangu. Sikumuona. Vile nilienda huko, nilikuwa naenda kutafuta mahali watoto wako. Sikuwa nasikia maneno yake.

Sen. Veronica Maina: Watoto wangapi?

[Shahidi]: Wawili.

Sen. Veronica Maina: Alienda na wao?

[Shahidi]: Watoto walikuwa huko na bibi.

156. In another account, in a meeting held on 23rd June, 2023 in Kisumu County, the Committee heard from another woman (54 years) from Muhoroni Sub County, Kisumu County who stated that her son, John, joined Paul Mackenzie’s Church. She informed the Committee that John worked as casual labourer in Nairobi County. During the COVID-19 pandemic lockdown, John asked for money to travel home from Nairobi to Kisumu. While at home, John started communicating with people the witness believed were from Paul Mackenzie’s Church.
157. John and a group of five or six young men would meet at her home, something she objected to and asked them to meet at their church to which the men responded that that they did not have a church because they were the church. The group did not do any economic work, like farming only watched television. John would leave for two or three days to visit his friends and return home after. This continued until sometime in 2021 when John informed the witness that he would be going to fast in the bush and that he would return in April 2022. The witness tried to prevail upon him not to leave but he said that “*they were not afraid and that they were with Jesus*”. Later, the witness stated that she heard that a car came and picked her son and others up from where they lived including an unknown woman who came with a child a day before they left. The witness has unsuccessfully tried calling her son since April 2022.
158. Around September 2022, the witness’ brother died. She once again tried to call her son John. He eventually picked up the phone and informed her that he was in the bush with animals and that he was preaching the word of God. In April 2023, her younger son informed her that he had seen John on television as one of the people rescued from Paul Mackenzie’s Church and that he looked emaciated. Her younger son told her that John had tried to recruit him to Paul Mackenzie’s church and would repeatedly ask him to go and pray. When she learned of the news, she travelled to Nairobi and reported the matter to Ruaraka Police Station and then travelled to Malindi, Kilifi County where she gave a DNA sample for testing. The witness informed the Committee that she was told by security authorities that many of the followers of Paul Mackenzie had changed their names and that some of the survivors had denied knowledge of their family members. She was informed that John was one of the people rescued but she was still awaiting DNA results when she appeared before the Committee. His whereabouts are unknown.

Table 10: Excerpt from Senate Hansard 23rd June, 2023, Kisumu County

[Shahidi kutoka Chiga, Kaunti ya Kisumu] : 2022 kama inaelekea mwezi wa tisa hivi. Nikamwambia John, uko wapi? Akaniambia niko tu. Uko wapi? Niko tu mama kwa kichaka na wanyama nawahubiria neno la Mungu. Nikashtuka nikasema, na hii mvua John? Inavyonyesha hivi uko kichakani? Na mko na nani hapo karibu na wewe? Akaniambia ako pekee yake na wanyama. Nikamwambia utauliwa na wanyama. Kama kuna nyumba hapo karibu enda ukae hata kama ni Mnandi au kabila gani, enda ukae na yeye na hata kama unaeza mchungia ng’ombe bora usikae kwa mvua. Mvua itakuua.

Akasema hapana mama. Nikamuuliza, nikutumie pesa ukuje? Akaniambia mama niko na pesa nyingi. Yesu ako na pesa usinitumie kitu. Nikitaka kuja nitakuja tu. Nikasema hapana. Nakutumia pesa ukuje. Akaniambia usinitumie pesa. Nikamwelezea babake. Akanitumia pesa. Nilikua nimeeka shilingi elfu moja karibu nimpigie nimumie. Nikipiga simu hapatikani. Ikakaa tena siku ingine nikapiga ikaingia. Mtu mwingine akashika. Nikamwambia nataka John. Akaniambia si mimi ni John. Nikasema hapana wewe sio John. Hiyo sauti si ya John.

Akaniambia John ametoka kidogo nitakupea akirudi. Kutoka hapo simu inalia hakuna mtu anachukua. Ikalia mpaka ikazimika. Hayuko kabisa. nikijarbu namba yake haingii. Juzi, mwezi wa nne, nikashtukia kijana anayemfuata mara mbili ananipigia. Mum, nilikua naona news ya saa tatu, nikashtuka. Naona mtu kama John ameshikwa na watu wa Red Cross. Nikamuuliza wapi? Eti uko Mombasa mahali panaitwa Malindi. John aliendaje uko? Akaniambia hata kuna pastor wa John alikua anatuambia tukiwa nyumbani, tuende tuombe na yeye kwa Mackenzie. Hata alikua ananionyesha picha ya huyo pastor. Huyo ni John. Nimemwona. Na amekonda kabisa na amewekwa kwa gari ya Red Cross.

Nikashtuka nikasema, Mackenzie! Sikuwahi kuskia mtu anaitwa Mackenzie eti ameshikwa. Eti kuna watu wamepatikana Shakahola. Sikua nimeskia hiyo habari. Nikaanza kujiuliza, huyu mtoto alienda Mombasa na inakuwaje? Babake alikuja nyumbani kutoka Nairobi. Tukaulizana ni nini hii? Nikaambia huyu kijana wetu aweze kufuatilia hiyo habari kwa simu. Akaniambia nitafuatilia. Kufuatilia siku hiyo, mbunge mmoja alienda uko kwa kichaka. Wakati huo ndio wale vijana walipatikana. Kidogo nilipokua nyumbani nimenyamaza, na mtoto ananiambia watu wanaenda Shakahola, na mimi nani ataniletea habari yam toto wangu kua uko. Nataka kuenda Mlalindi. Sitapotea. Niko na mdomo na simu.

159. In a meeting held on 24th June, 2023 in Vihiga County, the Committee heard from eight (8) distraught families who believed their missing family members were followers of Paul Mackenzie’s Good News International Ministries and had travelled to Shakahola, Kilifi County.
160. A male resident of Mungoma Ward, Vihiga County submitted to the Committee that his elder son, whose name was Kevin (42 years) had been changed to Alfred by the Church. Kevin worked as a welder and was the bread winner in the family. The witness, who appeared before the Committee with his younger son, informed the Committee that Kevin, also known as, Alfred, was believed to have joined Paul Mackenzie’s church in 2019. He would talk about the return of Jesus and refuse to go to the hospital when sick stating that seeking medical treatment was not allowed by the Church. Kevin was one of the persons rescued from Shakahola forest and was at the time of the interview in police custody in Shimo la Tewa Prison, Kilifi County. The Committee was further informed that Kevin was married with five children (aged 15, 8, 6, 3, and 2 years) with whom he travelled to Kilifi County. Kevin and his wife were alive but the whereabouts of the children was unknown. The witness believed that the children were dead. The witness also informed the Committee that he faced stigma in his community with people mocking him by calling him “Mackenzie” or “Shakahola”. His younger son, who accompanied him stated that they had visited Kevin in prison although his health had deteriorated. They stated they sought counselling services and appealed to

human rights organisations for help. The witness and his younger son appealed to the Committee to take action to save Kevin’s life since they believed that they had already lost five family members. An excerpt from the Senate Hansard is included below-

Table 11: Excerpt from the Senate Hansard, 24th June, 2023, Vihiga County

[Shahidi]: [...] Jambo langu ilikua ni kama Seneti ingeweza kuangalia mtusaidie kwa njia moja ama nyingine. Huku na kule, jamii imeathirika. Iko na unyanyapaa.

Jamii haitembelewi na imeathirika hata kimawazo. Sisi tulibahatika kidogo tukapata mmoja wa washauri all the way from Muranga, anaitwa [name withheld] lakini in Vihiga hatujapata mtu yeyote. Nimeskia kuna watetezi wa haki. Sijui wanatetea kutoka wapi kwa sababu pale nyumbani tunahitaji wakuje watuskize ndio wapate jinsi wanaweza kututetea?

Tunahitaji msaada wa pesa na mawazo na mambo mengine na hatujapata. Pande ile ingine, ndugu yangu tulivyomuona, hajawahi shikwa. Ni kana kwamba anapitia torture. Tusipoangalia hilo jambo vizuri tunaweza mpoteza tena. Sijui mnaonaje mzazi ambaye amepoteza wajukuu watano pia mtoto kufa, itakuangaliliwa kwa njia gani?

Ndugu yetu aangaliwe na watetezi wa kibadamu to save that life. Ni hayo tu. Mbarikiwe.

161. In a meeting held on 24th June, 2023 in Vihiga County, the Committee heard from a male resident of Tambua Ward, Vihiga County. He informed the Committee that his son, who was married with five (5) children had joined Paul Mackenzie’s church. Sometime in 2021, his son began telling his neighbours that it was the end of the world. He stopped taking his children to school which prompted the witness to report the matter the local area Assistant Chief. Authorities went to his home and arrested him and enrolled the children to school. He was sentenced but put on probation where he was required to report to probation officers periodically. He however fled with his wife and children and had not been seen or heard from for over a year. The witness informed the Committee he did not have the funds to travel to Kilifi County to follow up on his son’s whereabouts. An excerpt from the Senate Hansard is included below-

Table 12: Excerpt from the Senate Hansard, 24th June, 2023, Vihiga County

[Shahidi]: [...] Ilipofika 2021, alikuwa anaeleza majirani kwamba mwisho wa dunia umefika. Watoto wake walikuwa hawaendi shuleni. Ikawa hata ni dhambi kuwasiliana naye kwa simu. Watoto walikuwa wanaishi na nyanya yao. Aliwachukua watoto akawadanganya na wakahama usiku.

Mimi nilikuwa naambia watu wapeleke watoto wao shuleni ilhali kijana yangu anakataza watoto wake wasiende shuleni. Nilipiga ripoti kwa naibu wa chifu. Walimu walikuja wakamshika pamoja na vijana wake wawili. Mmoja anaitwa [...] na mwingine [...] Walishikwa kule Hamisi na wakaletwa shule hapa Kegoye. Mwenyewe alikuwa kule Serem. Nilijaribu sana lakini alinishinda. Alikuwa tu analalamika.

Walipoenda kortini, alifungwa mwaka mmoja nje bila kufanya kazi. Alikuwa anaenda kuripoti baada ya muda fulani. Alikosa kwenda huko siku moja, akachukua watoto na kutoroka. Ni zaidi ya mwaka mmoja tangu aende na hatujawahi kuwasiliana wala kuonana naye. Familia yote imepotelea nje.

162. On 24th June, 2023 in Vihiga County, the Committee heard from a man (80 years) and his wife, residents of Bunyore Ward, Vihiga County, whose son was missing. The couple was accompanied by their son's mother-in-law, a resident of Itungu, Vihiga County. The Committee was informed that their son, Joseph (32 years) left home in 2019 with his family, a wife and five (5) children without informing anyone of their whereabouts. The man narrated to the Committee that he received information from the local area Chief and Assistant Chief that his son, together with his wife and five (5) children (4 girls and 1 boy) had died in Shakahola, Kilifi County. The family planned to travel Malindi to identify the bodies. The family appealed for assistance to travel to Kilifi County and undertake DNA testing to identify their family members.
163. The Committee also heard from another man (85 years) from Mungoma Ward, Vihiga County who stated that two of his sons disappeared on 13th April, 2023 with their wives. He informed the Committee that they joined Paul Mackenzie's church in 2023. He later heard that his other son was found but he was emaciated and in danger of losing his life but was saved by the Red Cross Society. He said that one of his sons was also seen on television being arraigned in court. The witness informed the Committee that it was hard for him to travel to Shakahola, Kilifi County since he lived alone with no one to take care of his home. He stated that he has not received information on whether his sons were dead or alive.

4.2.7. Broadcasting Channels attributed to Good News International Ministries

164. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy, Mr. Eliud Owalo and the Director General, Communications Authority of Kenya (CA), Mr. Ezra Chiloba appeared before the Committee on 20th July, 2023 and 19th June, 2023 respectively. They submitted that Good News Media (K) Limited (Times TV) was licensed by the Communications Authority on 14th September, 2015 to provide Free to Air (FTA) Television broadcasting services with Mr. Paul Nthenge Mackenzie and Shedrack Musau Mutiso as directors, each with 50 percent shareholding of the total 600 shares issued. The channel was hosted by the Pan African Network Group (PANG) broadcasting signal distributor and was broadcasting in Mombasa and Malindi sites.
165. The Communications Authority submitted to the Committee that it started logging Times TV broadcast in Mombasa in April 2022 and that it was carrying broadcasting content of Ezekiel Odera of New Life Communications Limited since 2020. The

Authority submitted that Ezekiel Odero's plan to own Times TV in 2020 did not materialize, instead the New Life Communications Limited was issued its own license on 18th June, 2021 to broadcast as World Evangelism TV though it continued to air its content on Times TV.

166. Communications Authority submitted that their analysis of Times TV content from January to April 2023 showed it did not feature any teachings from Paul Mackenzie since the station had been taken over by Pastor Ezekiel Odero of New Life International Church. However, there were Christian preaching, teachings and prayer requests from congregants. It was also noted that the channel aired programmes that demonstrated exorcism (deliverance session) during the watershed period violating guidelines on good taste and decency. The Communications Authority informed the Committee that they carried out a follow-up inspection on 12th May, 2023, and established that Good News Media Kenya Limited (Times TV) facilities located at Good News Church premises in Malindi along Ganda Road were off air and appeared vandalized.
167. Ezekiel Odero of the New Life Church appeared before the Committee on Friday, 13th October 2023 accompanied by his legal representatives Danstan Omari and Associates Advocates. The Committee was informed that he settled in Mavueni in Kilifi County and established New Life Ministry which was registered on 11th September, 2011 and currently has 45,000 congregants. Ezekiel Odero further submitted that the facility had an international school and a hotel within its premises. He further stated that, the ideology of his ministry was based on the gospel and charity to the community.
168. On his relationship with Paul Mackenzie, Pastor Ezekiel Odero submitted that he first saw Mackenzie preaching on television around 2010. On or about 2019 or 2020 he approached Paul Mackenzie with the intention to purchase Mackenzie's Times TV. Following negotiations, a purchase price of Kshs 3.5 million was agreed upon. Ezekiel Odero paid Kshs 500,000/= as a deposit. The balance of Kshs 3 million was never paid after Ezekiel Odero opted out of the transaction after he opened his own television station known as World Evangelism TV. However, after the purchase of the television station from Paul Mackenzie, Ezekiel Odero aired his content on Times TV limited to the Coast Region.
169. Ezekiel Odero submitted to the Committee that he never preached together with Paul Mackenzie and did not ascribe to his doctrines particularly on not taking children to school, fasting to death and doomsday teachings. Ezekiel Odero reiterated that he had never been to the Shakahola forest nor interacted with any member of his Mackenzie's ministry. The matter of his alleged activities and connection to Paul Mackenzie
170. Ezekiel Odero further submitted that contrary to what has been reported mostly in the media, there was no mortuary or graveyard within his compound in Mavueni, Kilifi County where his church was based. He also reiterated that his doctrine is that of

preaching the true gospel and he did not ascribe to denial of education or Mackenzie's starvation doctrine evidenced by the fact that within the precincts of his church there was an international school offering British curriculum with modern well-equipped chemistry and biology laboratories, two restaurants among other facilities. The Committee further questioned Ezekiel Otero on allegations of money laundering and exploitation of his congregants through the sale of 'spiritual items' such as handkerchief and water. In his response, Committee was informed that all the activities of the church were funded from the contributions of the congregants of the church through their tithes and offerings.

4.2.7.1. Social Media Content attributed to Paul Mackenzie and Good News International Ministries

171. The Communications Authority submitted that Paul Mackenzie had broadcasted his sermons through a YouTube channel, which had 677 videos and over 7,000 subscribers. The Communications Authority and the Ministry of Information, Communications and Digital Economy submitted that the Kenya Information and Communications Act, 1998 does not give them power to deal directly with digital content or online broadcasts. Additionally, since most of the social media platforms are owned by foreign companies in other jurisdictions, they are not bound by Kenyan law. The Authority further submitted that they relied on cooperation from the social media companies to take down offensive online content. The Committee was informed that the National Government had in the interim established the National Kenya Computer Incident Response Team, a multi-agency collaboration framework which is responsible for the national coordination of cyber security and monitoring digital content brought to its attention through public complaints or court orders.
172. The Kilifi County Assembly Committee informed the Committee that at the time of writing its report, Paul Mackenzie's teachings continued to infiltrate the rescue centre and there was active recruitment of followers through agents on social media.

4.2.8. Communication lines registered under Paul Mackenzie's identification number

173. The Communication Authority and the Ministry of Information, Communications and Digital Economy informed the Committee that the Authority had requested mobile network operators (Safaricom PLC, Airtel Networks Limited, Telkom Kenya Limited and Jamii Telecommunications Limited) to provide details appertaining the communication lines both mobile and otherwise registered under Paul Mackenzie's name.
174. Data received from the four mobile network operators on the communication lines, both mobile or otherwise, that were registered under Paul Mackenzie's name and Identification number 1*****4 was that he had four (4) Safaricom lines, two (2) Airtel

Network mobile lines, two (2) Telkom Kenya Limited lines and none on Jamii Telecommunications as shown below—

Table 13: Communication lines registered under Paul Mackenzie’s name. Source- Communications Authority

Mobile Network Operator	Communication lines registered under Paul Mackenzie’s name
Safaricom PLC	(a) 0710333081 (b) 0727520269 (c) 0710333072 (d) 0794990863
Airtel Networks Ltd	(a) 0754274384 (b) 0733797144
Telkom Kenya Ltd	(a) 0777777784 (b) 0777520269
Jamii Telecommunications Ltd	No Number registered under Paul Mackenzie

4.2.8.1. Whether the mobile lines were enabled to transact mobile money and the respective account statements for the mobile lines

175. Noting accusations of financial exploitation and reports that Paul Mackenzie’s followers had sold all their property before joining his church, the Committee sought to establish from the Communications Authority and the Ministry of Information, Communications and Digital Economy whether the mobile lines were enabled to transact mobile money and the respective account statements for the mobile lines.
176. The Communications Authority and the Ministry of Information, Communications and Digital Economy informed the Committee that whereas Safaricom, Airtel and Telkom (K) provided data on the communications lines registered under Paul Mackenzie on their respective networks, they all cited the requirement for either a legal process to be followed or authorization by the mandated authorities to avail any financial transaction information. They further stated that while the Kenya Information and Communications Act, 1998 mandates the Communications Authority to license and oversight the use of ICT platform, the scope did not extend to digital financial transactions undertaken on such platform as the mandate falls under the purview of the Central Bank of Kenya (CBK) under the Ministry responsible for finance.

4.2.9. Survivors rescued from Shakahola Forest

177. The Kenya National Commission on Human Rights submitted to the Committee that it interacted with ninety (90) survivors including twenty-five (25) children who were being held in a rescue centre. According to interviews with local elders, a group of five severely emaciated boys were rescued by Orma herdsman as they were fleeing the forest. The herders handed them over to the local village elders who initially hosted them as they called in the local administration. The children who were heavily traumatized narrated to the elders how scores of people had been forced to fast to death

and then buried in shallow graves without coffins. The burials were being conducted by a gang of well-organized men who were also bludgeoning and strangling people who had changed their minds about fasting.

4.2.9.1. Child Survivors

178. The Kenya National Commission on Human Rights further submitted that children were then taken to the Malindi Children's Department who took them to a rescue center on 22nd March 2022 where they had been receiving counselling with the support of Kenya Red Cross and local churches.
179. When the Kenya National Commission on Human Rights visited the rescue centre on 21st June, 2023, most of the children had been enrolled into a local school as they continued receiving psycho-social support. The rescue centre had not received any financial support from the National Government and was facing serious resource constraints. The children had inadequate clothing, bedding, supplies, and the rescue centre was at a risk of running out of food.

Table 14: Children Survivors: Source: Kenya National Human Rights Commission

ID	Age	Ethnicity	State of Parents
001	4 years	Giriama	Unknown
002	8 years	Luhya	Father alive, Mother-Unknown
003	14 years	Luhya	Both parents dead
004	14 years	Kikuyu	Mother alive, Father-unknown
005	16 years	Kalenjin	Both parents alive
006	13 years	Luhya	Mother alive, Father-unknown
007	7 years	Luhya	Mother alive-Father unknown
008	5 years	Luhya	Mother alive-Father unknown
009	14 years	Luhya	Mother alive-Father unknown
010	13 years	Luhya	Mother alive-Father unknown
011	16 years	Giriama	Father alive, Mother-Unknown
012	12 years	Luhya	Both parents alive
013	9 years	Luhya	Both parents alive
014	5 years	Luhya	Both parents alive
015	13 years	Luhya	Both parents unknown
016	17 years	Luhya	Both alive
017	17years	Kauma	Both parents alive
018	4 years	Kauma	Both parents alive
019	9 years	Kauma	Both parents alive
020	8 years	Giriama	Father died,Mother alive
021	7 years	Giriama	Father died,Mother alive
022	5 years	Giriama	Father died,Mother alive
023	2.6 years	Giriama	Father died,Mother alive
024	1.4 years	Luhya	Both parents alive.
025	3 years	Luhya	Mother alive-Father unknown

4.2.9.2. Adult Survivors

180. Kenya National Commission on Human Rights submitted to the Committee that at the time of reporting, the situation of the other sixty-five (65) survivors, (twenty-six (26) males and thirty-nine (39) females), was worrisome given that a number of them had been going on a hunger strike owing to the effects of the radicalization and desperation due to the length of time they have been held since they were rescued. The majority of them were initially taken to hospital after they were rescued from the forest in a dire state of health. They were then taken to a private rescue centre under the protection of the police awaiting psychological counselling and rehabilitation. On 13th June, 2023, all sixty-five (65) persons were arraigned in court and charged with attempted suicide for failing to eat and remanded at Shimo la Tewa Prison, Kilifi County.
181. The Kenya National Commission on Human Rights raised concerns about the arraignment as it amounted to re-traumatizing the survivors at a time when they required sympathy, empathy, intense psycho-social assistance, and reintegration into the society. The Court concurred with the Kenya National Commission on Human Rights' submissions and ordered that the survivors be taken back to a rehabilitation centre for a proper assessment of their psycho-social needs followed by appropriate support. The Kenya National Commission on Human Rights has so far provided individualized psychological counselling for twenty-one (21) victims/survivors out of which six (6) were male while fifteen (15) were female.
182. The Kenya National Commission on Human Rights further informed the Committee that during its visit to the rescue centre on 23rd June, 2023, the survivors raised a number of issues touching on their plight including lack of proper psycho-social support, indefinite detention and being treated as criminals, denial of visitation and communication with their families, torture, cruel, inhuman and degrading treatment, restriction of freedom of worship, threats during interrogation by investigating officers, denial of entertainment including access to television and radio and a restriction of their movement in and out of the rescue centre.
183. Whereas these allegations were not immediately verifiable, the Kenya National Commission on Human Rights noted that there were major gaps in the nature of psycho-social support being provided to the survivors. Given the level of trauma and radicalization that they had undergone, there was a need to redirect and upscale efforts toward proper and effective rehabilitation by deploying adequate experts and resources. The Kenya National Commission on Human Rights further noted that all the survivors had no identification documents having destroyed them at the Shakahola Forest. It was therefore difficult to ascertain their real names and identity as some of them presented different names to the authorities.

4.2.9.3. Treatment of Suspects

184. The Kenya National Commission on Human Rights submitted to the Committee that on 22nd June, 2023, it visited Malindi Men's Prison where twenty-eight (28) suspects including Paul Mackenzie were being held. Whereas Paul Mackenzie had access to a mattress and a blanket, the other twenty-six (26) suspects were sleeping on bare concrete floor with no blankets. They complained of being held for very long indefinite period without any offences being disclosed. They however said that the condition in the prison was better than in police custody where they claimed they had been tortured, mistreated and denied food. They denied any involvement in the Shakahola killings and accused the police of fabricating accusations against them.
185. The Kenya National Commission on Human Rights submitted that prison authorities informed them that the prison was facing various challenges especially supplies which explained why over 30 percent of the male prisoners had no uniforms, mattresses or blankets. The prison was also overcrowded as it was holding eight-hundred and fifty (850) prisoners against a recommended capacity of six-hundred and fifty (650) prisoners. The prison was struggling to ensure all the prisoners were adequately fed with the limited food supplies. A number of the suspects staged intermittent hunger strikes while at the prison protesting delayed justice. As a result, some became very weak and were taken to Malindi Hospital where they were treated and returned to prison. At the time of the visit, no prisoner was reported being on hunger strike following counselling and dialogue with the prison authorities.

4.2.10. Location of Chakama Ranch where Good News International Ministries was based

186. The Cabinet Secretary for Interior and National Administration submitted that Shakahola Forest area is located approximately 100 kilometers north of Malindi and borders Tsavo East National Park. Shakahola is on the edge of human settlement which borders a forest that traverses Tsavo East National Park. Shakahola is within the Chakama Ranch. The Cabinet Secretary declared the area where the deaths took place a disturbed area and imposed a curfew vide Legal Notices 52 and 53 dated 25th April, 2023. The Cabinet Secretary further submitted that Paul Makenzie moved to Shakahola in the year 2020 after irregularly acquiring 800 acres of land, L.R. No. 13472/1 belonging to Chakama Ranching Company Limited, a limited liability company that was undergoing liquidation.

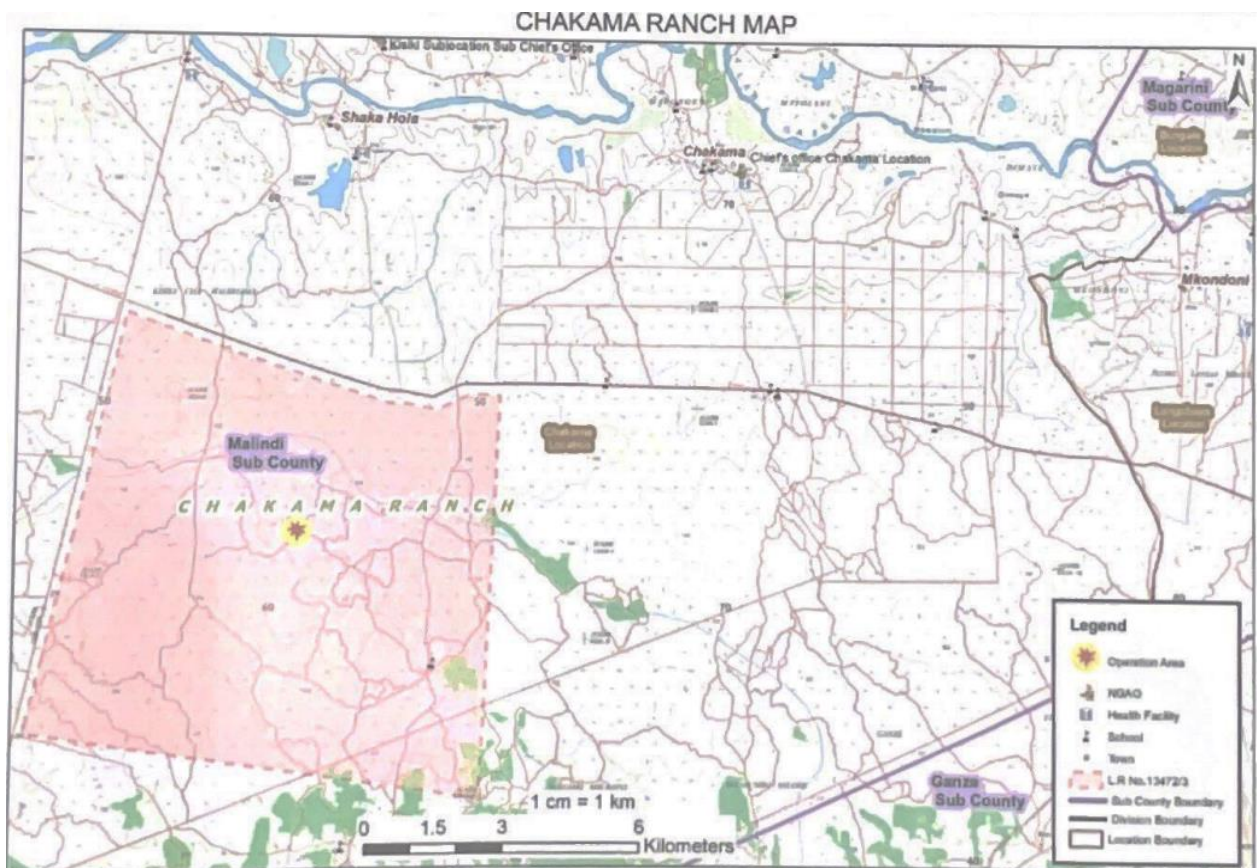


Figure 4: Map of Chakama Ranch. Source: National Intelligence Service, Kenya

187. On 10th July, 2023, Hon. Generali Nixon Korir, the Principal Secretary, State Department for Lands and Physical Planning appeared before the Committee on behalf of the Cabinet Secretary for Lands, Public Works, Housing and Urban Development to submit information on the ownership of Chakama Ranch. The Principal Secretary submitted that the National Government allocated parcel L.R. No. 13472, measuring approximately 100,000 acres, to Chakama Ranching Company Limited which was registered as a grant C.R. No. 17472 for a term of 45 years, commencing 17th December, 1984.
188. Parcel L.R. No. 13472 was later subdivided into L.R. No. 13472/1 and L.R. No. 13472/2. Further subdivisions were done on L.R. No. 13472/1 to L.R. No. 13472/3 (20,452.42 acres) and L.R. No. 13472/4 (30,003.54 acres), while L.R. No. 13472/2 gave rise to L.R. No. 13472/5 (15,640 acres) and L.R. No. 13472/6 (34,822 acres). In 1988, L.R. No. 13472/3 was transferred to New Agricultural Limited and further subdivided to L.R. No. 13472/7 (19,452.38 acres) and L.R. No. 13472/8 (1000.04 acres).

189. Parcel L.R. No. 13472/5 and L.R. No. 13472/6 were purchased from Chakama Ranching Company Limited for settlement of internally displaced persons (IDPs) who had been displaced by the 2007/2008 post-election skirmishes by the Settlement Fund Trustees. Chakama Settlement Scheme Phase 1 (L.R. No. 13472 /6) had 1090 parcels, with each measuring 15 acres while Phase 2 (L.R. No. 13472 /5) had 1,808 plots with each measuring 7.5 acres. The Principal Secretary mentioned that all plots were surveyed, registered and title deeds issued to the beneficiaries. Through his investigative agencies, he established that, the deaths in question took place within parcels L.R. No. 13472/7, 13472/8 and 13472/4.
190. The Principal Secretary further submitted that L.R. No. 13472/6 was purchased at a price of Kshs. 39,000,000 and L.R. No 13472/6 at a price of Kshs. 69,600,000 and both parcels were transferred to the Settlement Fund Trustees (SFT) on September 26, 2007. The Settlement Fund Trustees paid the entire purchase price totalling to Kshs. 108,600,000 for both parcels to Chakama Ranching Company Limited through their advocates Nyamu and Nyamu Company Advocates.
191. The Principal Secretary in his submission further confirmed that for LR No. 13472/5 measuring 6,329 Ha, Nyamu and Nyamu Company Advocates was paid Kshs. 3,900,000 as the first payment which was 10 percent of the total purchase price of Kshs. 39,000,000. The payment was through Cheque No. 004955 dated 14th May 2007. Subsequently, the second payment was made through Cheque No. 05373 for Kshs. 34,915,450 and Cheque No. 05374 for Kshs. 184,550. Both cheques were dated 4th March, 2008.
192. As pertains to L.R. No. 13472/6 measuring 14,092 hectares, the Principal Secretary submitted that, the purchase price was Kshs. 69,600,000 which was again paid to Chakama Ranch through their Advocates, Nyamu and Nyamu Company Advocates. Kshs. 6,960,000 was paid on 14th May 2007 through Cheque No.04956, being the first payment, which was 10 percent of the total purchase price of Kshs. 69,600,000. The second payment was made through Cheque No. 005190 for Kshs. 42,926,107, Cheque No. 005191 for Kshs. 4,560,918 and Cheque No. 005192 for Kshs. 15,152,975 all the three cheques were dated 9th October 2007.
193. The Principal Secretary also informed the Committee that on 31st August 2021, the Ministry of Devolution, Arid and Semi-Arid Lands notified the Ministry of Lands about the existence of a case, **Malindi HCCC No. 7 of 2015 Amina Mohammed Harith vs The Ministry of Devolution and Planning and 4 others**. The Plaintiff in the matter alleged that Chakama Ranching Company Limited sold to the National Government a portion of its land in 2008 or thereabouts for resettlement of Internally Displaced Persons (IDPs) at an agreed price of Kshs 108,000,000. She further averred that the National Government paid only Kshs. 13,000,000 as deposit leaving Kshs. 95,000,000

which was subject of the court proceedings. The Committee was advised that the matter had been dismissed by the High Court in Malindi for lack of jurisdiction.

194. The Principal Secretary submitted that the land purchase went through the process of procurement where the two parties, that is the National Government and Chakama Ranching Company Limited participated and signed all necessary documentation through their lawyers. All the payments and transfers were effected and the National Government does not owe Chakama Ranching Company Limited any outstanding payments.
195. The Principal Secretary submitted that Chakama Ranch Phase I consisted of 1090 parcels measuring approximately 15 acres each and the titles were issued to the beneficiaries in 2012. Additionally, Chakama Ranch Phase II consists of 1876 parcels each measuring approximately 7.5 acres each and that title deeds were issued to the beneficiaries in 2017. Further, the Principal Secretary stated that the Settlement Fund Board of Trustees was holding the mother title to the two parcels it acquired from Chakama Ranching Company Limited.

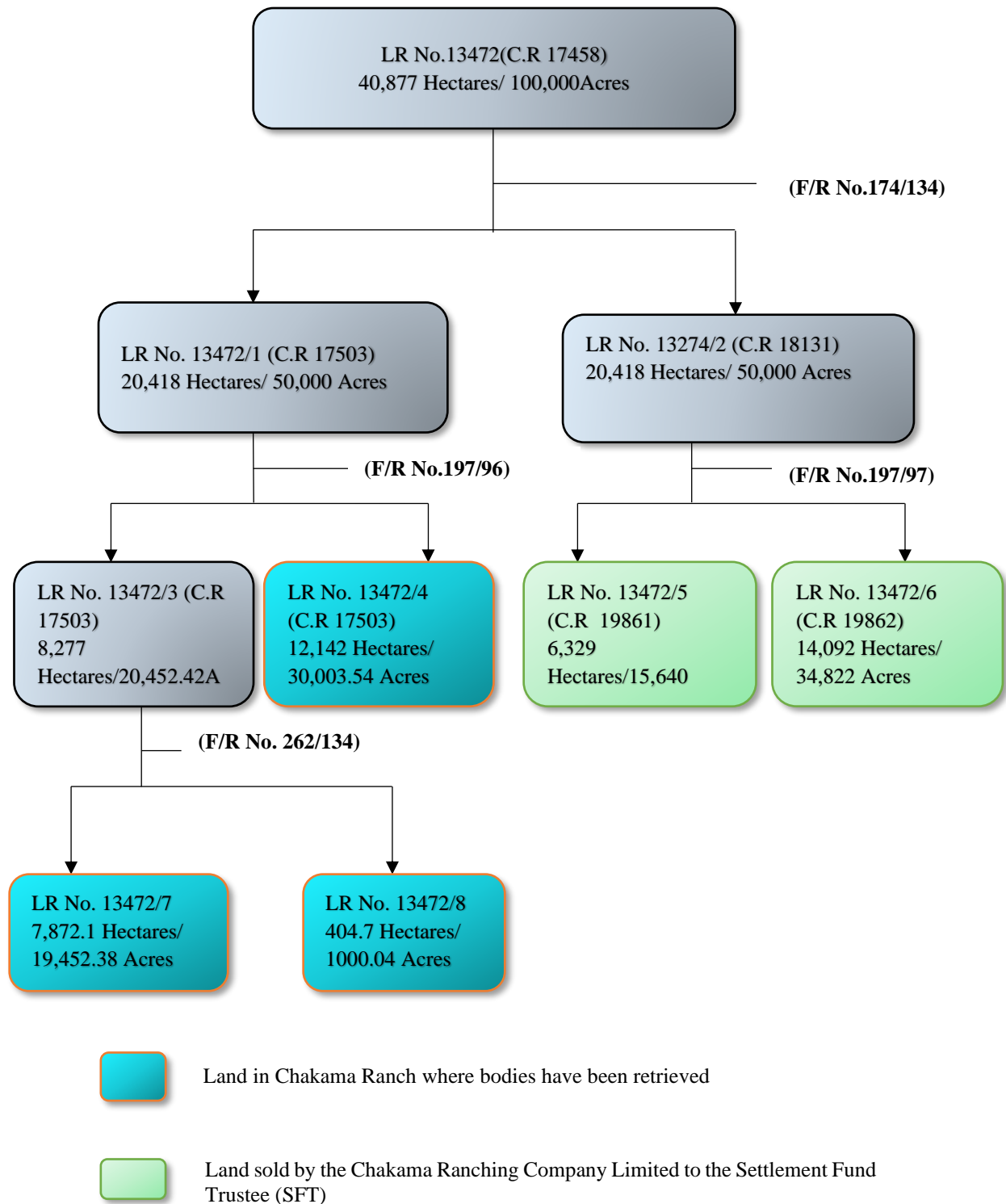


Figure 4: The sequence of subdivisions of Chakama Ranch. Source: Ministry of Lands, Public Works, Housing and Urban Development

196. The Kilifi County Assembly Committee submitted to the Committee that their investigations into the Shakahola tragedy revealed that there was poor supervision of usage of vast unoccupied land in Kilifi County making the county an easy target for extremist activities.

4.2.11. Ownership of Chakama Ranching Company Limited

197. The Official Receiver, Mr. Martin Gakuru and his representative Ms. Diana Mumo appeared before the Committee on 19th June, 2023, 3rd July, 2023 and 10th July, 2023 during which time it was submitted that Chakama Ranching Company Limited (in liquidation) was incorporated on 11th February, 1976, with the objectives of carrying out farming business, involving livestock breeding, animals and animal produce and all kinds of agricultural activities.
198. The Official Receiver further highlighted that, his main responsibilities following the liquidation of Chakama Ranching Company Limited were to realize assets of the Chakama Ranch and make pay offs, for the loan due to Continental Credit and Finance Limited, as well as debts owed by other creditors of Chakama Ranching.
199. Before the appointment of the Official Receiver on 29th February, 2016, the company was managed by six Kenyan directors namely Daniel Kitsayo Baya, Alfred Mukare Mwathethe, Rachael Furaha, Amina Harith, James Mulewa, Dickson Ngowa. The Official Receiver noted that at the time, Chakama Ranch had two main creditors, one Francis Mulwa who was owed legal fees plus interest of Kshs. 15,000,000 and Continental Credit Finance Limited, who had a charge of Kshs. 44,838,350 plus interest. The charge to Continental Credit Finance Limited on Chakama Ranching Company Limited of L.R. 13472/1 (in liquidation) dated 20th April, 1986, was used to secure a loan of Kshs. 60,000,000 granted to Aqua Agro Limited. The representatives of Aqua Agro Limited who signed the charge are Francis Mburu and John Williams, the directors of the company.
200. On his numerous visits to Chakama Ranch, the Official Receiver observed that there were squatters on the Ranch and held discussions with the contributories of the company. Complaints of illegal settled squatters on the land were reported by the Official Receiver to a police station. The Official Receiver informed the Committee that he pleaded with the former directors and contributories of the company to redeem their security to Continental Credit Finance Limited, for them to discharge their title.
201. P. G. Kaingu and Company Advocates, the legal representatives of directors of Chakama Ranching Company Limited appeared before the Committee on 19th June, 2023 and submitted that in 2007, Chakama Ranching Company Limited sold approximately 50,000 acres of land (L.R. No.13472/5 and 13472/6) to the Settlement Fund Trustees. The National Government paid a total of Kshs. 108,600,000 for the

purchase of the land which monies were received by Nyamu and Nyamu Company Advocates on behalf of Chakama Ranch.

202. P. G. Kaingu and Company Advocates submitted to the Committee that Nyamu and Nyamu Company Advocates released to the fifty (50) shareholders, 10 percent of the purchase price totalling to Kshs. 10,860,000 but failed to release the balance of Kshs. 97,800,000 and legal collection fee of Kshs. 9,780,000 despite demands by the shareholders to have the amount released. Further, Nyamu and Nyamu Company Advocates were requested to provide a breakdown of payments as filed in the Malindi Case as proof of the purchase price of the land sold to the National Government. Nyamu and Nyamu Company informed the Committee that it was unable to address the issues raised by P. G. Kaingu and Company Advocates due to advocate-client privilege.
203. The Kilifi County Assembly Committee informed the Committee that in their report, they had recommended that the National Government considers granting ownership of the remainder of Chakama Ranch of the 50,000 acres to the local community after the expiry of the lease period and all other ranches within Kilifi County to avert such occurrences in the future.

4.3. INVESTIGATE THE ROLE PLAYED BY ONE PAUL MACKENZIE OF THE GOOD NEWS INTERNATIONAL CHURCH, HIS PASTORAL TEAM AND THE KILIFI COUNTY SECURITY COMMITTEE IN AIDING AND ABETTING THE DEATHS OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH IN SHAKAHOLA VILLAGE, KILIFI COUNTY

204. With respect to its second mandate, to investigate the role played by one Paul Mackenzie of the Good News International Church, his pastoral team and the Kilifi County Security Committee in aiding and abetting the deaths of the followers of the Good News International Church in Shakahola, Kilifi County, submissions received by the Committee fell within the following thematic areas—

- (1) Violations of Human Rights by Paul Makenzie and Good News International Ministries
- (2) Previous complaints against Paul Makenzie and Good News International Ministries
- (3) Court Cases against Paul Makenzie
- (4) Response by the Kilifi County Security Committee and Local Administration
- (5) Response Operations at the Shakahola, Kilifi County

4.3.1. Violations of Human Rights by Paul Makenzie and Good News International Ministries

205. The Kenya National Commission on Human Rights, Amnesty International Kenya and the Law Society of Kenya appeared before the Committee on 5th July, 2023 and

submitted that various fundamental human rights and freedoms in the Constitution of Kenya were violated in the Shakahola tragedy. The right to life under Article 26 of the Constitution was infringed. As at 4th August, 2023, four hundred and twenty eight (428)⁵⁵ bodies had been recovered from Shakahola Forest, representing the most tragic violation of the right to life in Kenya. Similarly, the activities of Paul Mackenzie and Good News International Ministries violated the right to human dignity under Article 28 of the Constitution by constraining followers to live in degrading conditions. Paul Mackenzie further violated the freedom and security of persons by depriving his followers of their freedom arbitrarily, subjecting the followers to violence, torture, cruel, inhuman and degrading treatment.

206. The Kenya National Commission on Human Rights, Amnesty International Kenya and the Law Society of Kenya submitted that the economic and social rights of the followers of Paul Mackenzie were also violated, particularly the right to the highest attainable standard of health by denial of access to healthcare, the right to accessible and adequate housing and reasonable standards of sanitation by constraining followers to live in inhuman and degrading housing. The followers were denied food and water and the children were further denied education and safety.
207. The Kenya National Commission on Human Rights and Amnesty International Kenya further submitted that there was also a flagrant violation of numerous regional and international human rights instruments that Kenya has ratified, including the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), the International Convention on Civil and Political Rights (ICCPR), the African Charter on Human and People Rights (ACHPR) and the United Nations Convention on the Rights of the Child (UNCRC) among others.
208. The Kenya National Commission on Human Rights also pointed out that there was violation of the rights of an arrested person under Article 49 of the Constitution with respect to the manner in which the survivors and suspects linked to Paul Mackenzie and Good News International Ministries were handled by the State. The arrested persons complained of being held for indefinite period without any offences being disclosed, being tortured, mistreated and denied food.
209. The Law Society of Kenya highlighted some of the human rights violations by religious organisations in the country that have been witnessed and reported, these included—
 - (i) Coercive recruitment: That there has been use of deceptive and manipulative tactics to recruit new members, including isolating them from their families and friends, making false promises and using mind control techniques to make them more susceptible to indoctrination.

⁵⁵ The death toll is still rising.

- (ii) Control and abuse: Once someone becomes a member, they are subjected to psychological, emotional and physical abuse as the purported religious cult leaders exert control over their followers.
 - (iii) In some cases, members may be required to provide unpaid or underpaid labour under harsh conditions for long hours.
 - (iv) Sexual abuse: where religious/cult leaders use their positions of authority to sexually exploit their followers, including minors, and may even engage in rituals that involve sexual abuse or exploitation.
210. The Kilifi County Assembly Committee noted in their report that freedom of conscience, religion, belief and opinion enshrined under Article 32 of the Constitution were abused. Media freedom enshrined in Article 34 of the Constitution was also abused in that extremist teachings were available to the public.
211. The Supreme Council of Kenya Muslims (SUPKEM) decried the heavy-handed response from National Government against allegations of radicalization within the Muslim community citing cases of disappearance of persons, extra-judicial killings, closure of mosques, madrasas and other religious institutions suspected of indoctrinating and radicalizing followers. They proposed that leadership of various religious organisations should take steps to support the re-integration of the individuals to the community.

4.3.2. Previous complaints against Paul Mackenzie and Good News International Ministries

212. In a meeting held with religious leaders in Kilifi County on 19th May, 2023, the Committee was informed that in 2019 reports were made by some of the religious leaders in Kilifi County about children of Paul Mackenzie’s followers being taken out of school by their parents. It was also noted that Paul Mackenzie had no fellowship with fellow religious leaders in the area.
213. Information availed to the Committee indicated that there were recurring complaints against the activities of Paul Mackenzie in Kilifi County from as early as 2017. The Kilifi County Security Committee discussed these complaints which included—
- (a) opposition to formal education;
 - (b) radicalising adults to resign from their jobs and join the church;
 - (c) teachings against seeking medical treatment;
 - (d) anti-government rhetoric opposing policies such as deworming programmes, participation in the population census and *Huduma Namba* which he termed as the sign of the anti-christ;
 - (e) holding people hostage; and
 - (f) trespassing of private property.

4.3.3. Court Cases against Paul Mackenzie

214. The Kilifi County Security Committee, the Law Society of Kenya, the Office of the Director of Public Prosecutions and the Cabinet Secretary for Interior and National Administration submitted that Mackenzie had been arraigned in court severally.
215. The Office of the Director of Public Prosecutions submitted to the Committee on 19th July, 2023 that criminal cases had emanated from the events in Shakahola as well as previous charges levelled against Paul Mackenzie together with convictions against him.

4.3.3.1. Cases against Paul Mackenzie prior to the events in Shakahola
Table 15: Previous Cases against Paul Mackenzie

	Case	Charges	Outcome/ Status
1.	<i>Malindi Criminal Case No. 182 of 2017 Republic -vs- Paul Nthenge Mackenzie; Winne Alexander Gandi & Betty Mwaka</i>	The three accused were jointly charged with the offences of offering Basic Education in an unregistered institution contrary to section 76 (1) (2) and section 92 (a) of the Basic Education Act. The particulars were that on the 14 th March, 2017 at Good News International Ministries in Malindi Sub-County jointly with others not before the court, they unlawfully offered basic education in an unregistered institution in contravention with the Act.	The accused persons entered into a plea bargain with the Office of the Directorate of Public Prosecutions (ODPP). Mackenzie pleaded guilty and was fined Kshs. 20,000. He was discharged by the trial court and ordered to be of good behaviour.
2.	<i>Malindi Criminal Case No. 790 of 2017 Republic -vs- Paul Mackenzie Nthenge.</i>	The accused was charged on 17 th October 2017 with four (4) counts— (a) Radicalization contrary to Section 12D of the Prevention of Terrorism Act No. 30 of 2012 Revised Edition 2015; (b) Offering basic education in an unregistered institution contrary to Section 82 of the Basic Education Act No. 14 of 2013; (c) Failing to take his/her child to compulsory primary and secondary education contrary to Section 30(2) of the Basic Education Act No. 14 of 2013; and (d) Failing to provide right to education of a child contrary to Section 7 of the then Children Act Cap 141 Laws of Kenya.	The court ordered that Care and Protection Files be opened for the Children and also a Pre-Bail Report be filed. The Court on 19 th October, 2017 granted Mackenzie a conditional cash bail of Kshs 100,000/= (One hundred Thousand) and in the alternative bond of Kshs 500,000/= (Five Hundred Thousand Shillings) with one surety and upon release, Mackenzie was ordered to report to the Officer Commanding Police Station(OCS) Malindi every week. The court also ordered that the matter be heard on priority basis as it was a public interest matter. The matter was heard and determined and the accused was acquitted on 29 th October, 2017 under Section

			215 of the Criminal Procedure Code having found that the charges were not substantiated.
3.	<i>Malindi Miscellaneous Criminal Application No. 176 of 2017 Republic -vs- Paul Mackenzie Nthenge and 20 others.</i>	In this matter, the State made an application to hold Mackenzie and 20 others for 30 days on grounds that they were to carry out investigations for radicalization of children after they were found with 73 Children in a church in what was believed to have been a radicalisation process.	The court ordered an age assessment to be done on four of the suspects who were found to be minors and an order for care and protection was issued. The court allowed the other suspects to be held for a period of seven days for further investigations. The matter is still pending.
4.	<i>Malindi Children Protection & Care No. 57 of 2017 S.P and 42 Others</i>	These were 43 Children ranging from 1 year to 13 years and included Paul Mackenzie's 3 children who had been rescued from Good News International Church - Mayungu where they had been locked and were not going to school but receiving religious teachings.	The matter was heard on 18 th October, 2017 and after considering the Children Officer's Report allowed the Children who were being held at Mayungu Children Centre (safe space) to be released back to their families after counselling and medical care.
5.	<i>Malindi Criminal Case No. 366 of 2019 Republic -vs- Paul Mackenzie Nthenge</i>	The accused Paul Mackenzie Nthenge was charged with three (3) counts as follows: (a) Incitement to disobedience of the law contrary to Section 96 (c) of the Penal Code and the particulars are: on 11 th April, 2019 in Malindi Township jointly with others not before the court was found in possession of cinema topographic films intended to incite children against attending school and incited Christians against Hindus, Buddhists and Muslims. (b) Being in possession and distributing films to the public which had not been examined and classified by Kenya Film Classification Board contrary to Section 12 of the Films and Stage Plays Act Cap 222 Laws of Kenya; and (c) Operating a filming studio and producing films without valid filming licence from Kenya Films Classification Board	The accused pleaded not guilty and the Prosecution objected to bail or bond. The Court declined the application and granted the accused cash bail of Kshs. 500,000/= and in the alternative bond of Kshs. 1,000,000/= with one surety. The matter was scheduled coming up for defence hearing on 26 th June, 2023.

		contrary to Section 4 of the Films and Stage Play Act Cap 222 Laws of Kenya.	
6.	<i>Malindi Criminal Case No. 264 of 2019 Republic -vs- Isaac Njoroge Kuria</i>	On 25.03.2019 the accused a member of the Good News International Church was charged with cruelty and neglect to a child and the particulars were: On diverse dates between 14 th March, 2019 to 8 th September 2019 at Sunpark area in Malindi being the father of D.N.K aged 6 years, E.N.K aged 4 years and H.N.K aged 2 years wilfully abandoned and neglected the children by prohibiting them from school and medical care and other basic necessities. The children had been rescued by their maternal grandparents after receiving a tip off from neighbours on what was looming.	The accused was found guilty for prohibiting the children from attending school and failing to take the children to hospital yet they were seriously sick suffering from acute tuberculosis and malnutrition. The children's mother who was a nurse had also died in the house from tuberculosis after refusing to seek medical attention as their church prohibited them to do so. The accused were discharged under Section 35(1) of the Criminal Procedure Code after mitigation.

216. In response to the Committee’s query on why Paul Mackenzie was not fully prosecuted in the past despite the severity of the crimes he had committed, the Office of the Director of Public Prosecutions submitted that it was very difficult to get evidence against him at that time since most witnesses refused to testify and those who did gave evidence in favour of Paul Mackenzie.
217. The Office of the Director of Public Prosecutions added that they were however finalizing their investigations and discussion on the possible charges against Paul Mackenzie with a view to levelling the most serious charge.

4.3.3.2. Cases linked to the deaths in Shakahola

Table 16: Cases linked to the recent activities of Good News International Church and Paul Mackenzie

	Case	Charges	Status
1.	<i>Malindi Miscellaneous Application No. E040 of 2023 Republic -vs- Paul Nthenge Mackenzie and 13 Others</i>	The State moved the court on 17 th April, 2023 seeking for orders to allow the chief pathologist to exhume remains of 17 unknown bodies buried at Shakahola for post mortem, toxicology and DNA tests.	The matter was heard and orders were granted for exhumation, post mortem, toxicology and DNA testing.
2.	<i>Malindi Miscellaneous Application No. E041 of 2023 Republic -vs- Paul Nthenge Mackenzie and 13 Others</i>	The State moved the Court on 17 th April, 2023 seeking for Orders to hold the 14 respondents for 30 days as they were linked to the offences of murder, suicide, manslaughter, conspiracy to kill, criminal	Suspects 8-14 to remain in police custody for a period of 7 days and the matter will be mentioned on 02.05.2023.

		recklessness and negligence, abducting in order to confine, accessories to the fact, child cruelty, child neglect, attempted suicide and others. The matter was heard and orders granted as follows: Suspects 1-7 to remain in police custody for a period of 14 days pending completion of investigations:	
3.	<i>Malindi Miscellaneous Application No. E024 of 2023 Republic -vs- Paul Nthenge Mackenzie.</i>	The State moved the court on 23 rd April, 2023 seeking for orders to hold Paul Mackenzie for a period of 14 days for being connected to murder of two children who had succumbed to starvation and suffocation at Shakahola and buried in a shallow grave.	The matter was heard and the respondent released on a cash bail of Kshs. 10,000/= and ordered to report to the police station as and when required to aid in investigations. The ODPP filed a Review of the Orders to the High court which matter was dismissed for lack of merit.
4.	<i>Malindi Miscellaneous Criminal Application No. E042 of 2023 Republic -vs- Smart Mwakalama, Haji Kombo and Mtengua Mkai</i>	The State moved the court on 24 th April, 2023 seeking orders to hold the accused persons for a period of 10 days at Malindi Police Station as they are connected to the offence of murder, manslaughter and others. The application was heard and police allowed to hold the accused persons for 3 days and the matter was scheduled for mention in court on 27 th April, 2023.	The Judicial Service Commission which is charged with handling disciplinary issues and the leadership of the Judiciary, are examining the records to establish whether there was any misconduct on the part of Judicial Officers and staff who handled the matter.
5.	<i>Malindi Misc. Application No. E043 of 2023 Republic -vs- Paul Nthenge Mackenzie and 7 Others</i>	The State moved the court on 25 th April, 2023 seeking for further exhumation orders on the 800 acres of land owned by Pastor Paul Mackenzie at Shakahola together with orders for DNA, post mortem and toxicology tests for any bodies that would be found buried.	The application was allowed and further directed that the exhumation is limited to the 800 acres of land at Shakahola as mapped out by the scene of crime experts.
6.	<i>Misc. E075 of 2023</i>	The ODPP sought custodial orders against Paul Mackenzie.	30 days' custodial orders were granted and according to ODPP, the progress report shall be filed in court on the general status of the investigations. The matter was pending at the time of completion of this report.

4.3.4. Response by the Kilifi County Security Committee and Local Administration

4.3.4.1. Possible negligence by Kilifi County Security Committee and Local Administration

218. The Committee noted during the fact finding visit to Kilifi County that the entire County Security Committee in the County had been transferred to pave way for investigations into the Shakahola tragedy. The Kilifi County Security Committee that was present submitted that its membership had recently been appointed to their posts after the transfer of previous officers and had been in office for less than a month. The Committee subsequently requested the Cabinet Secretary for Interior and National Administration to cause the appearance of the transferred Kilifi County Security Committee members before the Committee. In response to the request, the Cabinet Secretary appeared before the Committee on 11th July, 2023 and requested the Committee to allow him to address the concerns of the Committee in their stead to prevent the publicisation of information that may negatively affect the future prosecution of suspects and the safety of witnesses.
219. Non-governmental and civil society organisations in Kilifi County submitted to the Committee that there was inaction from the Directorate of Criminal Investigation officers in Malindi and Lango Baya Police Station. This was attributed to the fact that upon reporting the endangerment and requesting the rescue of an 8-year old boy from Shakahola Forest, police officers delayed for five (5) days before visiting the forest on 22nd March, 2023. The non-governmental and civil society organisations further submitted that even when police officers agreed to accompany Mr. Wanje, who had obtained exhumation orders, and a staff member of the Malindi Human Rights Centre to the forest, upon reaching the forest, the police officers allegedly received a phone call and retreated from the exercise leaving Mr. Wanje and the human rights officer in the forest. The non-governmental and civil society organisations however indicated that they could not establish who called the police officers and instructed them to retreat.
220. Non-governmental and civil society organisations in Kilifi County further submitted to the Committee that Paul Mackenzie was arrested on 22nd March, 2023. On 23rd March, 2023, Mr. Wanje, a human rights defender and a crew from Nation Media Group went into the forest. They were accompanied by one of the former followers of Paul Mackenzie who had initially helped Mr. Wanje identify the homestead of his daughter and son-in-law in the Shakahola forest. While in the forest, the group was surrounded by a gang of about fifteen (15) men believed to be the Paul Mackenzie's security team. They were armed with crude weapons and beat up the former member of the church who had accompanied Mr. Wanje and thereafter carried him to Lango Baya Police Station where they left him. On the same day, 23rd March, 2023, Paul Mackenzie was let out on a Kshs 10,000 bail.

221. Mr. Wanje obtained a Court Order dated 21st March, 2023 requiring the Government Pathologist and the investigators from the Directorate of Criminal Investigation in Malindi to exhume the bodies of two minors for the purpose of a post-mortem analysis and DNA sampling to ascertain the cause of death of the minors. The Court Order required the Malindi Sub County Commander and the OCS Lango Baya Police Station to provide security during the exhumation. Notwithstanding the Court Order, no exhumations happened despite numerous visits by Mr. Wanje to the various security offices in Malindi Sub County. On 12th April, 2023, Mr. Wanje received help from the County Commander of Police who instructed a different set of police officers to visit Shakahola forest to effect the Court Order. The police went into the forest on 14th April, 2023 and that is when the full extent of the tragedy was discovered.
222. The Kilifi County Assembly Committee submitted that their investigations into the Shakahola tragedy revealed that there was laxity and inaction on the part of law enforcement agencies and the Judiciary thereby enabling Paul Mackenzie to act without interference. Additionally, there was lack of coordination on security matters between the National and County governments. The nearest police station, Lango Baya Police Station was more than sixteen (16) kilometers from the scene of the Shakahola tragedy making it difficult for locals to report security issues to the police in time.
223. In their report, the Kilifi County Assembly Committee recommended that the Ethics and Anti-Corruption Commission, Independent Policing Oversight Authority, the Internal Affairs Unit of the Police, Office of the Director of Public Prosecution and the Judicial Service Commission take appropriate action against government officials whose acts and omissions aided in the Shakahola tragedy.
224. The Kenya National Commission on Human Rights lauded the efforts by the State to bring to justice the perpetrators but maintained that the justice process should be done lawfully and in a manner consistent with human rights standards and principles. However, the Commission stressed that the Cabinet Secretary for Interior and National Administration should severely sanction and charge with criminal negligence all security officers and national administration officers whose acts of commission and omission abetted and aided the Shakahola tragedy.

4.3.4.2. Lack of Adequate Disaster Management Systems at the National and County Level

225. The Kilifi County Assembly Committee submitted that their investigation into the Shakahola tragedy revealed that there were no proactive systems on early warning indicators and preparedness on disaster management both at the National and County level. Kilifi County's health system (hospitals and the morgue) were overwhelmed by the large number of victims and dead bodies.
226. Additionally, there were no proper plans for victim integration back to the society or a proper mechanism for witness protection. Further, there were no proper mechanisms for psychosocial support for both victims and personnel involved in exhumation of

bodies. The Kilifi County Assembly Committee therefore recommended the establishment of proactive systems, policies and legislation on preparedness and disaster management both at the National and County level and enhancement of budgetary allocations for disaster management. It further recommended that both levels of government establish functional rescue centres and operational counselling centres for mental health support for the victims of the tragedy as soon as possible.

227. The Kilifi County Assembly Committee also recommended that the National Government develops the capacity of the State Forensics Department to ensure speedy processing of body identification and DNA matching. It further recommended that the two levels of government jointly develops mechanisms for the implementation of witness protection policies.

4.3.4.3. Community Policing

228. The former National Steering Committee on *Nyumba Kumi* appeared before the Committee on 7th July, 2023 and submitted that during their tenure they proposed an elaborate infrastructure which would have ensured that the security lapses identified in the Shakahola tragedy are prevented. The *Nyumba Kumi* infrastructure was designed from the village level all the way to the national level and included well planned reporting mechanisms. The training they had proposed to be offered to the public and security agencies was to be cascaded to the village level and the reporting mechanisms were designed to forestall threats to national security organs. This would have sensitized the public on the importance of owning security as the first line of defence.
229. The former National Steering Committee on *Nyumba Kumi* however informed the Committee that upon finalisation and submission of their report to the National Government, their recommendations were not implemented. They submitted that if the recommendations on the *Nyumba Kumi* infrastructure had been fully implemented, incidences such as those witnessed in Shakahola would have been prevented.
230. The Kilifi County Assembly Committee recommended that National and County Governments sensitize communities to be vigilant, embrace community policing and report any unusual occurrences and suspicious persons within their vicinity.

4.3.5. Response Operations in Shakahola, Kilifi County

231. During the fact finding visit in Shakahola, Kilifi County, the Committee visited the Command Centre and observed the operations at the scene of the Shakahola tragedy. The Committee noted that the unfortunate events happened inside Chakama Ranch which is a private property measuring about 50,000 acres in the Shakahola area of Kilifi County. The Committee was informed by the head of the Command Centre, Senior Assistant Inspector General of Police that the teams in the Command Centre comprised of a search and rescue team, an investigation team and teams from the Internal Affairs Unit of the National Police Service and the Kenya Police Dog Unit. A team from the Kenya Red Cross Society was also on site complementing the services of the Command

Team. There were a total of fourteen (14) counselors provided by the Kenya Red Cross Society on site to counsel the people conducting the exhumations, officers at the site and the pathologist's team. Group and individual sessions were conducted in the afternoons to debrief the teams.



*Picture 5: Committee being briefed by security officers at the Command Centre in Shakahola, Kilifi County.
Source: Senate of Kenya*

232. The Senior Assistant Inspector General of Police submitted to the Committee that ninety-two (92) police officers were deployed in the operation and drones were used as part of the search. The rescue mission was difficult due to the indoctrination of followers of Paul Mackenzie as they would hide from the police and rescue team. He also submitted that Lango Baya Police Station lacked capacity hence there was need to enhance their capacity.
233. The Committee received submissions from the Kenya Red Cross Society team, led by the County Coordinator in a meeting held on 19th May, 2023 at the Red Cross Building in Malindi. The team informed the Committee that the Society had established an information desk at the Malindi Sub County Hospital. They further informed the Committee that family members of suspected victims were traumatized because they could not establish whether or not their kin were alive. Some survivors had changed their names making it difficult to identify them.

234. The team from the Kenya Red Cross Society informed the Committee that the Society was involved in the registration of missing persons, provision of psychosocial support and counselling of families and rescuers, provision of first aid services for those undertaking exhumation, ferrying survivors to hospitals, registration of survivors. Additionally, the Society donated a four hundred (400) body-capacity container to supplement the Malindi mortuary due to lack of capacity in the mortuary. Rescued children were treated, counselled and taken to Mayungu Children Organization and Blessed Children Home.

4.3.5.1. Tracing of Victims by Family Members

235. The County Security Committee and the Kenya Red Cross Society informed the Committee that the survivors were making the rescue mission difficult as they were giving false information to the rescue team. It was also difficult for family members to trace the victims as they had acquired new names, and did not have identification documents since they had disposed them. The Committee was informed that some of the victims while escaping to Tsavo East National Park Area, encountered elephants that had chased them from the Park and were forced to run back to the Shakahola Forest area for safety.

236. The Kenya National Commission on Human Rights in their submission to the Committee recommended that the Ministry of Interior and National Administration facilitates the survivors to regain their vital documents such as national identity cards, birth certificates, title deeds, academic certificates and marriage certificates which were destroyed as a result of the indoctrination.

237. The security agencies submitted to the Committee that most of the victims originated from other parts of the country, from areas such as Vihiga, Kisumu, Kawangware and Bombolulu (Mombasa). There were no locals because the local community rejected Paul Mackenzie's doctrine. Security agencies further informed the Committee that more investigations needed to be conducted on the possibility of existence of affiliates of the Good News Ministries in other counties such as Kisumu, Vihiga and Nairobi.

238. This notwithstanding, information availed to the Committee indicated that there were affiliate branches of Good News International Ministries in Makongeni in Nairobi County, Mbui Nzau and Ndeini in Makueni County, Sameta in Kisii County, Usoma in Kisumu County and Bombolulu and Jomvu Kuu in Mombasa County.

239. The Kenya Red Cross Society submitted to the Committee that of the six hundred and thirteen (613) persons reported missing as at 19th May, 2023, only eighteen (18) had been re-united with their families. The major reason for this was the change in names of the survivors. The survivors gave false information to the rescuers. For instance, some would deny being together with their children in Shakahola Forest.

240. The Kenya National Commission on Human Rights submitted to the Committee that the Directorate of Criminal Investigations needed to develop information materials or announcements in the media for families to understand the procedure, how to follow up after the registration of missing persons, the DNA matching process and releasing of bodies for burial.

4.3.5.2. Access to Information by the Public and barring of the Media from the Exhumation Site in Shakahola

241. The Kilifi County Security Committee in a meeting held on 19th May, 2023 informed the Committee that the media and other persons were barred from the scene of crime, to contain information and also preserve the sanctity of the bodies exhumed. It submitted that it was important to establish security boundaries to control movements in and out of the forest and create cut lines for ease of access in the forest area by security personnel. In its view, there was need to manage public expectations on the time taken to identify their loved ones since there were no timelines on the possible completion of the exercise. There was also need to intensify the search and rescue operations to save survivors.

4.3.5.3. Resource Allocation

242. The Kilifi County Assembly Committee submitted to the Committee that there were financial constraints during rescue operations and general management of the tragedy.
243. The Kenya National Commission of Human Right submitted that Parliament should approve the allocation and disbursement of optimal resources to all the agencies dealing with the various aspects of the Shakahola tragedy such as the Correctional Services Department, the Children Services Department, the Directorate of Medical Services, the Kenya National Commission on Human Rights, the Office of the Director of Public Prosecutions, the Government Pathologist and rescue centers.

4.3.5.4. Traditional Cleansing of the Shakahola Area

244. The Kilifi County Assembly Committee informed the Committee that Kaya elders had planned to assemble in Shakahola to hold traditional prayers and cleanse the area. The challenge encountered by the Kaya elders was that the cleansing is required to be performed inside the forest which they cannot access due to its status as restricted area.

4.3.6. Investigations and Prosecutions

245. The Office of the Director of Public Prosecutions highlighted that it had caused prosecutions relating to the activities in Shakahola specifically on the **Malindi Criminal Case 182 of 2017** and **Malindi Criminal Case No. 790 of 2017**. Additionally, the Office also made a number of applications for custodial orders seeking to detain Paul Mackenzie and the other suspects so as to prevent possible interference with investigations into the activities relating to the Shakahola tragedy. The Office of the Director of Public Prosecutions led by the Director of Public Prosecutions visited Shakahola on 24th April, 2023.

246. The Office of the Director of Public Prosecutions further submitted that on 10th May, 2023, the Director of Public Prosecutions appointed a prosecution team to handle the criminal cases arising from the Shakahola tragedy towards ensuring that the victims of the horrific and heinous crimes receive justice and that the perpetrators are held accountable.
247. The Office of the Director of Public Prosecutions in its submissions added that preliminary investigations indicated the commission of serious crimes including terrorism, procuring, counselling and aiding persons to kill themselves, radicalization and murder in violation of various statutes such as the Penal Code, the Prevention of Terrorism Act, the International Crimes Act, the Proceeds of Crime and Anti-Money Laundering Act, among others.
248. The Office of the Director of Public Prosecutions committed to ensure that the rights of the victims would be upheld at all times and that where necessary, the Office would seek special protection measures. Upon completion of the investigations, the Office committed to ensure that all perpetrators found culpable would be prosecuted in line with the Constitution and all other relevant Acts of Parliament.
249. The Kenya National Commission on Human Rights submitted to the Committee that the National Police Service should conduct thorough investigations to ensure that the perpetrators are brought to justice, especially those who bear the highest responsibility. The survivors and witnesses who have not recorded their individual statements should be encouraged to come forth and document the same to facilitate accountability and justice without fear of criminalization. The Kenya National Commission on Human Rights additionally proposed that the Office of the Director of Public Prosecutions should to pursue the prosecution of the perpetrators of the Shakahola tragedy for accountability and to avoid a repeat of the incident and that survivors should not be charged as they are in need of protection and care as well as witnesses to the crimes committed.
250. The Kenya National Commission on Human Rights submitted to the Committee that the Witness Protection Agency should support and protect these witnesses. Similarly, the Office of the Director of Public Prosecutions requested the Witness Protection Agency to intervene and protect all the identified witnesses and victims of the Shakahola tragedy.

4.4. ESTABLISH THROUGH THE OFFICE OF THE REGISTRAR OF SOCIETIES, THE NUMBER AND ACTIVITIES OF RELIGIOUS GROUPS IN THE COUNTRY INCLUDING THEIR REGISTRATION AND COMPLIANCE STATUS

251. With respect to its third mandate, the submissions received by the Committee fell within the following thematic areas—

- (1) Number and activities of religious groups in the country
- (2) Procedure for registration of religious organisations
- (3) Compliance with registration requirements

4.4.1. Number and Activities of Religious Groups in the Country

252. The Attorney General and the Registrar of Societies appeared before the Committee on 10th May, 2023 and submitted that the Societies Registry held records of approximately 100,000 registered societies that are maintained in manual form. They submitted that approximately 40,000 of the registered societies are of a religious nature and include churches, mosques and temples.
253. The Attorney General submitted that the then Attorney General announced a moratorium on registration of religious societies on 11th November, 2014 after media reports on alleged illegal activities by certain religious societies which included extortion of their followers and the public at large. There was also an increase in the radicalization of the youth in places of worship raising a security concern for the country. The Attorney General, with the constitutional mandate to promote, protect and uphold the rule of law and defend public interest, saw the need for more regulatory measures to govern societies at large and religious societies in particular since the provisions in the Societies Act were inadequate. The Attorney General therefore exercised his statutory powers under section 5 (1) (f) & (2) of the Office of the Attorney General Act, 2012 in announcing the moratorium.
254. The Attorney General submitted that subsequently in 2015, the then Attorney General developed the draft Societies (Religious Societies) Rules to address the inadequacy of the current legal framework on registration and oversight of religious organisations. This statutory instrument was intended to bring order into the religious sphere which had been accused of commercialization of religion and radicalization. The draft rules however met vehement opposition and the Attorney General finally abandoned them.
255. The Attorney General submitted that the then Attorney General lifted the moratorium on 13th June, 2022 upon preparing Administrative Guidelines and Standard Operating Procedures to be complied with by anyone seeking to register a religious society in consultation with religious leaders. The Attorney General submitted that since then, the Registrar of Societies has received a total of nine hundred and seventy-eight (978) applications for registration of faith-based organizations through the *e-citizen* platform and the same were at various stages of registration. The Registrar of Societies informed the Committee that out of the nine hundred and seventy-eight (978) applicants his office had only issued certificates of registration to eleven (11) applicants who were compliant with the guidelines.

256. The Attorney General further submitted that section 10 of the Societies Act stipulates that activities of religious societies be provided in their respective constitutions under the objectives clause.

4.4.2. Procedure for Registration of Religious Organisations

257. The Attorney General submitted to the Committee that in addition to the requirements for registration provided under the Societies Act, every application made for registration of a religious society is to be accompanied by the following documents as per the Administrative Guidelines on the Registration of Religious Societies in Kenya, 2022: -

- (1) a copy of the national identification card, Kenya Revenue Authority PIN certificate and one passport photograph from each officer of the society;
- (2) telephone numbers and email address of each officer of the society;
- (3) a certified copy of a Certificate, a Diploma or a Degree in Theology from a recognized theological institution from at least one officer of the society;
- (4) certificate of good conduct from the National Police Service from each officer of the society pursuant to section 23 of the Societies Act;
- (5) a tax compliance or exemption certificate from Kenya Revenue Authority from each officer of the society, pursuant to section 23 of the Societies Act;
- (6) an affidavit sworn by each officer indicating whether they are registered members or officers of other religious societies and the names of such societies;
- (7) an introduction/recommendation letter from a registered religious society in good standing signed by any two officers of such society; and
- (8) a list of the members of the society indicating their full names, national identity card numbers and phone numbers of each member.

4.4.3. Compliance with Registration Requirements

258. The Attorney General further submitted to the Committee that once issued with a certificate of registration, a society is required to comply with the following as provided under the Societies Act and the guidelines which require that every registered society—
- (a) keeps a register of its members and causes to be entered therein the name and address of each member, the date of their admission to membership and the date on which membership ceases (section 25 (1));
 - (b) keeps one or more books of account and causes to be entered therein details of all moneys received and payments made by the society (section 26 (1));
 - (c) annually furnishes the Registrar, not later than 31st March of every year, an annual return in respect of the immediately preceding calendar year form I, together with the relevant filing fees as indicated on the form (section 30 (1) and rule 13);
 - (d) notifies the Registrar on Form B, within 14 days, of any change in the society's registered office or postal address (section 16 (3) and rule 10) with such notification required to be accompanied by a filing fee (rule 18);

- (e) gives the Registrar notice, on Form H, of any Change of Officers, giving names, addresses, occupations and title of the officers within 14 days of the change (section 17 (1) and rule 11) with such notice required to be accompanied by a filing fee (rule 18).
- (f) ensures that, except with the prior written consent of the Registrar obtained upon written application signed by three officers of the society (section 20 (1)), the society does not—
 - (i) amend its name, constitution or rules;
 - (ii) become a branch, an affiliate or get connected to any organization or group of a political nature established outside Kenya; or
 - (iii) dissolve itself;
 with the application accompanied by a copy of the minutes of the meeting at which the resolution to do that thing was passed, certified as a true copy by three officers of the society and delivered to the Registrar within 14 days after the day on which the resolution was passed (section 20 (2) and must be accompanied by an application fee (rule 18);
- (g) supplies any information which the Registrar may order under section 31;

259. The Attorney General submitted that the contact specified above remains the only contact point between the office of Registrar of Societies and any registered society as they visit the office to file the necessary requirements.

4.5. AUDIT THE LEGAL AND REGISTRATION FRAMEWORK FOR RELIGIOUS ORGANIZATIONS IN THE COUNTRY

260. With respect to its fourth mandate, the Committee received submissions on the following—

- (1) Constitutional Provisions
- (2) Societies Act (Cap.108)
- (3) The Penal Code (Cap.63)
- (4) Legal Framework Regulating the airing of media programmes on television, radio, print media and social media and their activities

4.5.1. Constitutional Provisions

261. The Law Society of Kenya, the Kenya National Commission on Human Rights, Amnesty International Kenya and Kenya Human Rights Commission informed the Committee that the legal framework regulating religious activities and organizations in Kenya is primarily governed by the Constitution. They submitted that the Constitution contains several provisions that promote religious freedom, protect the rights of individuals to practice their religion and ensure a secular state that treats all religions equally as provided below—

- (1) Article 8 of the Constitution provides that there shall be no state religion;

- (2) Article 27 of the Constitution on equality and freedom from discrimination prohibits discrimination on various grounds, including religion and ensures that every person is entitled to equal protection and benefit of the law and that no one should be discriminated against on the basis of their religion;
- (3) Article 32 of the Constitution provide for freedom of conscience, religion, belief and opinion and stipulates that every person has the right, either individually or in company with others, in public or private, to manifest any religion or belief through worship, practice, teaching or observance of a day of worship; prohibits denial of access to any institution, employment or facility or the enjoyment of any right, because of the person's belief or religion; and provides that a person shall not be compelled to act, or engage in any act that is contrary to a person's belief or religion;
- (4) Article 33 of the Constitution on the freedom of expression protects the freedom of expression, which includes the freedom to manifest religion in worship, observance, practice or teaching, either individually or in community with others and guarantees the right to propagate, preach and disseminate religious beliefs;
- (5) Article 37 of the Constitution on the freedom of assembly protects the freedom to assemble, demonstrate, picket and present petitions and includes the right to assemble for religious purposes and express religious views collectively;
- (6) Article 44 of the Constitution on the freedom and security of the person guarantees the freedom and security of every person, including the right to practice their religion or belief without interference or coercion; and
- (7) Article 53 of the Constitution on the rights of children which protects the rights of children, including the right to religious and moral education that is consistent with their beliefs and cultural values and recognizes the role of parents and guardians in guiding the religious upbringing of their children.

262. The Law Society of Kenya informed the Committee that in its view, there were no clear Constitutional provisions that limit the practice of worship or provide the extent to any limitation in the practice but rather offers exceptional freedom. It stated that while the Constitution maintains a separation between religion and the state which may be crucial for ensuring religious freedom, limited state intervention can lead to challenges in monitoring and regulating religious activities. Without appropriate oversight however, it becomes easier for religious groups to proliferate and to engage in fraudulent or exploitative practices. The Society therefore proposed stricter regulation of religious organisations to avoid occurrences as happened in Shakahola.

263. Amnesty International Kenya submitted to the Committee that it would be prudent to avoid a knee-jerk reaction to the Shakahola tragedy and instead balance the right to life and safety with the freedom of worship.

4.5.2. Societies Act

264. The Law Society of Kenya, the Kenya National Commission on Human Rights, Amnesty International Kenya and Kenya Human Rights Commission informed the Committee that the Societies Act in Kenya governs the registration, regulation, and administration of societies by providing for specific provisions regarding the establishment and management of religious societies. With respect to registration of societies, the Societies Act requires religious societies to register with the Registrar of Societies in order to obtain legal recognition and enjoy certain benefits and protections under the law. The registration process includes submitting a constitution, a list of officials, and other relevant documents.
265. The Law Society of Kenya further informed the Committee that the Societies Act provides for Membership and governance of societies. It specifies the requirements for membership in religious societies and outlines the rights and obligations of members. It also sets out provisions related to the governance structure, election of officials, and decision-making processes within the society.
266. The Societies Act further makes provisions for financial management of societies. It requires religious societies to keep proper financial records, prepare annual financial statements, and submit them to the Registrar. It also stipulates the procedure for auditing the society's accounts. Section 30 of the Act provides for consequences for failure to file annual returns although the Act does not explicitly state what happens when a church fails to file its annual returns.
267. The Law Society of Kenya further submitted that a person who makes false entry or an omission from a return is fined Kenya Shillings ten thousand (Kshs. 10,000) or imprisoned. Section 17 of the Societies Rules on the other hand provides that a registered society or officer guilty of an offence against the Rules shall be liable to a fine not exceeding two thousand shillings or in case of an officer, to imprisonment for a period not exceeding three months. The Society however decried the lack of strict penalties, stating that it encourages violation to this legal requirement. Section 31(1)(e) empowers Registrar to require any registered Society to furnish him with audited accounts whenever he deems fit. This would mean that the Registrar exercises the power when it is necessary meaning it is not mandatory to have the audited accounts of each and every registered church on regular basis.
268. The Law Society of Kenya further submitted that if a religious society wishes to make changes to its constitution, it must follow the prescribed procedure outlined in the Societies Act. This typically involves obtaining the approval of the majority of members through a general meeting and notifying the Registrar of the amendments.
269. The Act provides guidelines for the dissolution and winding up of religious societies. It outlines the procedures to be followed, including obtaining the consent of the

Registrar, settling any outstanding debts or liabilities, and distributing the remaining assets in accordance with the society's constitution.

270. The Law Society of Kenya pointed out legal gaps and made several proposals to the Committee with respect to the Societies Act. The Society submitted that the Societies Act does not expressly state who may register a Church. This means any person, regardless of their theological background,] can register a Church. The absence of a requirement invites all persons including con artists to apply for registration. Additionally, though the Act provides for registration of churches, the process fails to adequately address the issue of transparency and accountability by religious leaders. The lack of accountability does not only concern their actions but also the funds collected from members of congregation. Equally, while Churches have also put some self-regulatory mechanisms in place by having umbrella bodies, this self-regulatory mechanism is not sufficient enough to protect persons from all forms of abuse by errant religious leaders since the said mechanisms are applied only to churches that are members of the umbrella bodies.
271. The Law Society of Kenya also submitted that there was need to review and update the Societies Act to reflect the emerging issues to deter individuals and groups from exploiting religious rights, committing fraud, engaging in human rights violations through the harmful practices or causing harm to individuals or society at large in the guise of religion. As an alternative to reviewing the existing legal framework, the Society proposed a comprehensive framework for religious organizations be enacted to make registration for all religious groups operating in Kenya mandatory. This will foster transparency, accountability and facilitate efficient scrutiny of religious activities to ensure compliance with national laws, protect human rights, ensure public safety and prevent the emergence of radicalized or harmful groups.
272. The Law Society of Kenya further submitted that there was need to establish clear eligibility criteria for registration such as minimum membership, organizational structure, financial accountability and adherence to constitutional principles and values. This will help prevent the formation of exploitative religious organizations while ensuring that genuine religious groups align and respect constitutional values, human rights and public welfare.
273. Religious organizations also need to provide comprehensive information, including their leadership structure, sources of funding and purposes of spiritual practices as part of the registration process. This will ensure transparency, prevent illicit activities and provide a basis for effective oversight and regulation of religious organizations in Kenya.
274. On matters public participation, the Law Society of Kenya submitted that there was need to engage relevant stakeholders, including religious leaders, human rights activists

and legal experts to gather diverse perspectives and insights for the proposed legislative reforms. Ensuring public participation will not only enhance the legitimacy of the proposed reforms but also address concerns, maintain balance and generate collective support for safeguarding religious activities in Kenya.

275. With respect to oversight and compliance, the Law Society of Kenya submitted that there is need to establish an independent regulatory body, preferably an Inter-Religious Council, tasked with supervising registered religious organizations, investigating complaints and addressing breaches of existing laws or regulations. An independent regulatory body would foster a collaborative approach between the state and religious organizations while ensuring public trust, protecting vulnerable members of society, mitigating radicalization and promoting harmony among diverse religious groups.

4.5.3. The Penal Code

276. The Law Society of Kenya submitted to the Committee that the Penal Code contained provisions related to various criminal offenses, including those that may have implications for religion. While the Penal Code does not specifically target religion as a subject, certain provisions are relevant to religious activities, expressions or offenses related to religious practices. Some provisions of the Penal Code in Kenya that may have implications for religion include Section 132 of the Penal Code which creates offences against religion. It criminalizes the wilful and unlawful disturbance of religious assemblies, processions, or meetings. It further prohibits actions that cause disturbance, obstruction, or annoyance to participants in religious activities.
277. The Law Society of Kenya also submitted that section 13 of the National Cohesion and Integration Act, which is incorporated into the Penal Code, prohibits the use of threatening, abusive or insulting words or behaviour intended to stir up ethnic hatred, religious hatred or other forms of discrimination.
278. The Law Society of Kenya further submitted that section 96, 97 and 98 of the Penal Code cover offences related to incitement to violence or hatred and prohibit actions or statements that incite others to commit violence against individuals or groups based on religious affiliation or promote religious hatred.
279. The Society submitted that the Penal Code does not have specific provisions that criminalize blasphemy or religious insult. It however noted that section 181 of the Penal Code provides for the offence of “*insult to religion*” as makes it an offense to wilfully and unlawfully insult any religion or religious beliefs. The interpretation and application of this provision may vary in practice but it provides worshipers with extraordinary freedom to conduct their religious practices without any fear of interruption and may have greatly contributed to the numerous cases of rogue churches.

4.5.4. Legal framework regulating the airing of media programs on television, radio, print media and social media for religious organizations and their activities

280. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee the legal framework regulating the airing of media programs on television, radio, print media and social media for religious organizations and their activities. They informed the Committee that the regulatory agency for the communications sector in Kenya as per the Kenya Information and Communications Act, 1998 was the Communications Authority of Kenya. The Authority is responsible for facilitating the development of the information and communications sectors including: broadcasting, cybersecurity, multimedia, telecommunications, electronic commerce and postal and courier services.
281. Implementation of the Kenya Information and Communications Act is enabled by subsidiary legislation. For broadcasting services, there is the Kenya Information and Communications (Broadcasting) Regulations, 2010, the Programming Code and the Broadcasting Licence Terms and Conditions. These instruments enable the Communications Authority of Kenya define the process of licensing, terms and conditions for licensees and measures to be taken in the event of violations.
282. The process of licensing broadcasters is very elaborate. It involves submission of the application to Communications Authority of Kenya. Upon receipt of such an application, Authority publishes for thirty (30) days in the Kenya *Gazette* a notice of intention to license an applicant to operate a radio or TV station. Details of the applicants are also submitted to state security agencies for security vetting as part of the licensing process. Where there is no objection, Authority proceeds to issue a license.

4.5.4.1. Broadcast Categories

283. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee that as per Kenya Information and Communications Act, all broadcasters are categorized into the following three categories—
- (a) public broadcasters which is the Kenya Broadcasting Corporation;
 - (b) commercial broadcasters who are private investors; and
 - (c) community broadcasters which are radio stations meant to serve the greater good of a community.
284. They noted that there is no specific licensing category for religious broadcasting stations. Broadcast stations carrying out religious programming as their main genre are licensed either as commercial or community broadcasters. The licences issued by the Communications Authority of Kenya under each category have uniform terms and conditions to be complied with, irrespective of whether or not the programming is religious.

285. As at 31st May, 2023, the Communications Authority had licensed the following categories of broadcast service providers listed in the Table below-

Table 17: Number of Broadcasters Per Category Source: Communications Authority of Kenya

Licence Category	Total Licences issued as at 31st May 2023
Broadcast Signal Distributor	2
Self-Provisioning Broadcast Signal Distributor	3
Commercial Free to Air TV	326
Community Free to Air TV	9
Commercial FM radio	195
Community FM Radio	70
Subscription Broadcasting Service	18
Subscription Management Service	4
Landing Rights Authorization	5
Total	632

Source: Communications Authority of Kenya

286. There are one-hundred and nine (**109 broadcasters**) carrying the programming genre which is primarily/exclusively categorized as religious.

4.5.4.2. Content Regulation and Monitoring

287. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee submitted that the Kenya Information and Communications Act amendments of 2013 expanded the mandate of the Communications Authority of Kenya to include developing media standards and monitoring compliance with the set standards and the law. In discharging this responsibility, Communications Authority of Kenya undertakes broadcast content monitoring to assess compliance levels.
288. In accordance with Section 46H of Kenya Information and Communications Act, the Communications Authority of Kenya has prescribed a Programming Code for both radio and television broadcasters. The Code sets the standards for the time and manner of programs to be broadcast by a licensee. In this regard, broadcasters are required to provide responsible and responsive programming that caters for the various needs and susceptibilities of different sections of the Kenyan community, observe standards of good taste and decency and ensure that advertisements, either in terms of content, tone or treatment are neither deceptive nor repugnant to good taste.
289. The standards as set out in the Programming Code are broadly characterized into five areas as shown in the Table below and under each standard, broadcasters are expected to adhere to specific guidelines.

Table 18: Broadcasting Standards Categories Source: Communications Authority of Kenya

No.	Content Standard	Specific Guidelines
1.	Watershed period	Inappropriate content
2.	Good taste and decency (Children's programming, coverage involving children, religious programmes, advertisements, occultism & superstition, sex, obscenity & pornography, liquor, cigarettes & drugs, broadcast competitions, user-generated content)	Children's programming
		Coverage involving children
		Religious programmes
		Advertisements
		Occultism & superstition, sex, obscenity & pornography
		Liquor, cigarettes & drugs,
		Broadcast competitions
3.	Hate speech	Sensitivity, crime & crisis situations
4.	Local content	Minimum of 40% local content
5.	Accessibility to content by PWDS	Sign language interpretation

290. On airing of negative content, the Cabinet Secretary, Ministry of Information, Communications and Digital Economy informed the Committee that the National Government intended to set up a call centre for public complaints at the Konza Technopolis which will be relayed to the relevant government departments for necessary action and that a toll-free numbers will be availed to Kenyans.
291. The Kilifi County Assembly Committee, in its report on the Shakahola tragedy, recommended that the Communication Authority of Kenya regulates and censors the content of religious teaching on broadcasting stations with nationwide reach.

4.5.4.3. Guidelines for Religious Programming

292. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee that religious organizations providing Free to Air television or radio services are required to adhere to the licence conditions and the Programming Code pursuant to Section 46 of Kenya Information and Communications Act. Paragraph 4.4 of the Programming Code on Religious Programmes recognizes that Kenya is a multi-religious nation whose laws guarantee, safeguard and protect the freedom of worship and association. Accordingly, pursuant to the Programming Code—
- (a) paragraph 4.4.2.2 of the Code provides that religious programmes shall not be used to maliciously attack, insult, harass, or ridicule other churches, faiths, sects or denominations or their followers because of their beliefs;
 - (b) paragraph 4.4.2.3 of the Code provides that religious programmes shall give due regard to the freedom of religion and religious expression;

- (c) paragraph 4.4.2.4 of the Code provides that broadcasters shall ensure that religious programmes do not improperly exploit any susceptibilities of the audience for such a programme; and
- (d) paragraph 4.4.2.5 of the Code provides that broadcasters must use their best endeavours to provide accuracy and correctness of the content of religious programmes.

4.5.4.4. Guidelines for Occultism and Superstition

293. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee that under Good Taste and Decency Standard, Paragraph 4.5 of the Programming Code defines occultism as a belief in the efficacy of various practices based on hidden knowledge about the universe and its mysterious forces. To avoid glamorizing occultism and to avoid its undesirable consequences to the people of Kenya, the Guidelines require that—

- a) programmes featuring superstitious and pseudo-scientific beliefs and practices, such as supernatural powers, foretelling of the future, astrology, phrenology, palm-reading, numerology, mind-reading, hypnotism, faith healing or similar subjects shall be carefully presented as not to mislead the viewer/listener;
- b) care should be taken to prevent the exploitation of people who may be easily swayed by such superstitious and pseudoscientific beliefs and practices; and
- c) programs or program materials that promote or encourage occult practices, black or white magic, witchcraft and similar activities are not admissible during the watershed period.

4.5.4.5. Broadcast Content Monitoring

294. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee that the Communication Authority of Kenya continuously monitors performance of broadcasters against standards outlined in the Programming Code. This is mainly done through sampling, inspections and complaint-based monitoring. The sampling framework caters for the different genres of programming. During special events such as the general elections, the scope is adjusted to cover a wider scope.

295. However, the monitoring of broadcast content is limited by the geographical reach and capacity of Communication Authority of Kenya to log. Currently, the Authority logs a total of 140 FTA TV channels and 124 FM radios located in Nairobi, Mombasa, Nakuru and Nyeri. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya advised the Committee the Communications Authority of Kenya is expected to expand the geographical reach of broadcast logging to cover an additional twenty-two (22) towns by the end of 2023 and additional thirty (30) towns in 2024.

4.5.4.6. Online Content Regulation, limitations and proposed way forward

296. The Cabinet Secretary, Ministry of Information, Communications and Digital Economy and the Director General of the Communications Authority of Kenya submitted to the Committee that despite the increased use of online platforms such as YouTube, Netflix, social media networks and other Over-the-Top services to broadcast content, there are no provisions in the Kenya Information and Communications Act to regulate online broadcasts. In the interim, the Committee was informed that that the government had established the National Kenya Computer Incident Response Team, a multi-agency collaboration framework which is responsible for the national coordination of cyber security together with relevant actors locally and internationally in monitoring digital content brought to its attention through a public complaint or court order.
297. In view of the foregoing, Cabinet Secretary, Ministry of Information, Communications and Digital Economy observed that there was an urgent need to enhance legislation and regulation to provide a clear legal framework on monitoring of online platforms. It is envisaged that the above challenge will be addressed upon the conclusion of an on-going legal and legislative review of the communication law in Kenya.

4.6. DEVELOP A LEGISLATIVE PROPOSAL ON REGULATION OF RELIGIOUS ACTIVITIES IN THE COUNTRY

298. With respect to its fifth mandate, the Committee received various legislative and regulatory proposals within the following thematic areas—
- (1) Self-Regulation versus State Regulation
 - (2) Registration of Religious Organisations
 - (3) Institutional Framework for Registration and Monitoring of Religious Groups
 - (4) Regulations of Operations of Religious Organisations
 - (5) Theological Education and training for Religious Leaders
 - (6) Standard Theological Curriculum for Theological Education
 - (7) Recognition and Accreditation of Theological Education

4.6.1. Self-Regulation versus State Regulation

299. The Committee received varying submissions on whether religious organisation should be self-regulated or regulated by state agencies.
300. With respect to self-regulation, a majority of religious organisations that appeared before the committee proposed self-regulation. They included the Kenya Conference of Catholic Bishops, the Evangelical Alliance of Kenya, the National Council of Churches of Kenya, the Supreme Council of Kenya Muslims, Jesus is Alive Ministries, Ministry of Repentance and Holiness and some local religious leaders in Kilifi, Kisumu and Vihiga Counties.

301. This view was also shared by Amnesty International who stated that there should be no limitation of freedom of conscience, belief, religion and opinion and called on the Committee to propose self-regulation mechanisms and the role of the Registrar of Societies be limited to oversight.
302. The Kenya Conference of Catholic Bishops made reference to the Democratic Republic of Congo, China, Eritrea, Russia, Vietnam, Singapore, Tajikistan, Turkmenistan and Tunisia where the State had invested in regulation of religion with undesired results. They submitted that regulating churches was discriminatory and tended towards singling out specific religions or faith formations and runs contrary to Article 27 of the Constitution. It further submitted that regulating churches by the State ran the risk of offending Article 8 of the Constitution which provides that there shall be no state religion. The Kenya Conference of Catholic Bishops further raised concerns that an individual who manifests a different religious belief may become the regulator which would mean a member of one particular religion may dictate activities of another religion thus affecting the freedom of minority groups or those who refuse to be regulated in that manner.
303. Kenya Conference of Catholic Bishops were also of the view that most religious organizations subscribe to specific mode of administration and organization vastly different from others which are heavily informed by their religious beliefs and tenets, it would be difficult to come up with a common regulation that aligns with all of the religious organizations' practices. It further submitted that some religions such as the Catholic Church has an international organization governed by a common law and discipline which will raise questions on the relationship between the state and the religious organizations' international structures. It expressed their opposition to state regulation of religion and averred that state regulation of religion will likely open up the different religions to be manipulated by different groups, especially politicians in an attempt to control the activities of the various religious groups to fit into their interests.
304. The Kenya Conference of Catholic Bishops as such recommended that security agencies be more proactive in addressing issues of insecurity and criminal acts and that the government should seek to collaborate more closely with the religious umbrella bodies for purposes of self-regulating mechanisms by religious organizations. A reference should be made to the umbrella body before any religious group is registered.
305. The National Council of Churches of Kenya emphatically opposed regulation of religious organizations by the State. They submitted to the Committee that the Constitution of Kenya, 2010 under Article 32 gives every Kenyan the right to freedom of conscience, religion, thought, belief and opinion which should not be easily limited and curtailed on account of failure by state agencies to investigate and act on criminal

activities. The National Council of Churches of Kenya submitted that the existence and operations of religious institutions in Kenya are regulated by different laws including the Societies Act, the Companies Act, the Prevention of Terrorism Act and the Penal Code. They proposed the enforcement of the law, especially the Societies Act and the Prevention of Terrorism Act, to prevent religious organizations from engaging in extreme indoctrination.

306. The National Council of Churches of Kenya gave a proposal of self-regulation of faith organizations that facilitates peer monitoring of the practitioners of the different religious persuasions which would be best coordinated through umbrella bodies to which the religious groups subscribe to.
307. Local religious leaders from Kilifi County submitted to the Committee that churches teaching the right doctrine would not be worried about regulation. The leaders proposed that registration of churches be halted for an inquiry into the operations of churches and that the head of the church should be a qualified preacher that is in possession of a certificate in theology from a recognized and accredited institution. In this regard, theological colleges should also be regulated.
308. The religious leaders in Kilifi County proposed that an audit of all the churches in Kenya be conducted. They stated that they had presented a Memorandum of regulations of churches to the Attorney General for consideration. In the memorandum, they proposed that regulation of churches be done similar to that of political parties under the Political Parties Act, 2011.
309. On its part, the Hindu Council of Kenya submitted that the Hindu way of life was not based on any particular doctrines but on common religious texts and do not form a doctrine of their own. It further stated the Hindu religious institutions are not personality based and that there is a clear division of powers and authorities within the religious institutions. There is significant good governance and self-governance practices in place to reduce the proliferation probability in Hinduism. The Hindu Council of Kenya therefore called for the implementation and strengthening of the existing laws including the Constitution and other laws holding the view that adding another layer of legislation would not serve a deterrent purpose.
310. In sharp contrast with the foregoing submissions, the ODPP submitted to the Committee that there was an urgent need for Parliament to enact a specific legislation aimed at regulating extreme religious activities in accordance with Article 24 of the Constitution which prescribes the permissible manner to limit the non-absolute freedom of conscience, religion, belief and opinion.

311. Similarly, the Kilifi County Assembly noted, in its investigations into the Shakahola tragedy, that the current legal and regulatory framework was inadequate to supervise and oversee the general conduct and management of religious activities.
312. The President of the African Association for the Study of Religion, Prof. Damaris Parsitau, appeared before the Committee on 30th June, 2023 and submitted that there was a distinction made in international human rights documents between internal beliefs and the external realm or manifestation of those beliefs. Whilst the right to hold a particular belief is generally considered to be absolute, outward manifestations of religion may be subject to legitimate restrictions. There should be a legally acceptable framework in line with international law and the Kenyan Constitution to help the government protect its people. Prof. Parsitau held the view that some element of regulation is necessary to reign in rogue clergy like Paul Mackenzie. She encouraged the Committee to look at religion through the lenses of national security in view of what transpired in Shakahola.
313. Prof. Damaris Parsitau further submitted that mainstream or established churches have established and long tested mechanisms for self-regulation. However, a majority of newer Pentecostal and charismatic churches that have proliferated in Kenya and Africa in general lacked tools and mechanism for self-regulation. While state regulation can be potentially problematic and can lead to state abuse of power, the events in Shakahola demand action. It was necessary to make decisions for the sake of national security and the people and to avoid similar deaths. Additionally, the victims and their families must get justice while the citizens need to be protected from death, exploitation, abuse, trauma, and confusion. In this respect, security from abuse and exploitation is a right enshrined in the Constitution.
314. Prof. Damaris Parsitau further submitted that other concerns that warrant regulation of religious organisations is the rampant exploitation of the sick and Persons with Disabilities which is unacceptable, unethical and against the human rights and dignity of vulnerable groups. There is also financial and sexual exploitation of the public as well as of women and girls. Additionally, some new religious movements have been known to create family rifts as noted from public debates about some churches driving a rift between married couples by prohibiting consummation of marriage.
315. Further information submitted to the committee proposed regulation of religious institutions in accordance with the draft Societies (Religious Societies) Rules of 2015.
316. The Law Society of Kenya, on its part, submitted to the Committee that regulation of churches was needed and long overdue. It proposed for stricter regulation of churches with qualifications and even taxation of substantive earnings.

4.6.2. Registration of Religious Organisations

4.6.2.1. *Inadequacy in the current regime of registration*

317. The Attorney General submitted to the Committee that the Societies Act (1968) was the overarching piece of legislation dealing with the registration of all types of societies. He submitted that religious organizations are grouped amongst other societies and are registered and regulated through the Societies Act. Section 2 of the Societies Act defines a society to include a club, company, partnership or association of ten or more persons whatever its nature or object that is established in Kenya or has its headquarters or chief place of business in Kenya which definition included any branch of a society. The Attorney General observed that the number of societies currently registered by the Registrar of Societies is approximately 100,000. About 40,000 of those societies are of a religious nature which includes churches, mosques and temples. Since the legal regime available for registration of religious organization is the Societies Act, all these religious organizations have been registered under the Act.
318. The Attorney General submitted that the regime of registration of religious organizations was governed by an old law which governed the registration of such registration of members' clubs, burial committees among others. As such, that due to the ease with which individuals could register a religious organization, there was an upsurge in the number of religious organization seeking registration.
319. The Registrar of Societies on her part informed the Committee that the Office of the Attorney General had identified the gaps of the Societies Act and had developed a draft Associations Bill, 2018 which among other things sought to repeal the Societies Act and enhance regulation of all societies registered in Kenya. The Registrar of Societies submitted that the proposed law introduced appropriate measures to govern the societies in order to cure the gaps in the Societies Act which had been found inadequate. The Registrar further recommended the need for stakeholder education on the services offered by the Office of the Registrar of Societies, digitization of records and automation of services.

4.6.2.2. *Decentralisation of the Office of the Registrar of Societies*

320. Several stakeholders highlighted the critical role played by the Office of the Registrar of Societies in registration of religious organizations and ensuring compliance with regulations and guidelines for operations of religious organizations. On the matter of monitoring for compliance purposes, the Attorney General submitted that the Offices of the Registrar of Societies and that of the Attorney General were not decentralized making it difficult to offer proximate services to the public at the lowest point of service delivery. These offices have presence in only fourteen (14) regions hence making it difficult to monitor compliance of faith-based institutions once registered. The proposal to strengthen and decentralize the services of the office of the Registrar of Societies was also emphasised by the Cabinet Secretary for Interior and National Administration,

the Kenya Conference of Catholic Bishops, National Council of Churches of Kenya and the Evangelical Alliance of Kenya.

4.6.2.3. Reporting Mechanisms of Societies in breach of the law

321. The Attorney General further submitted that there was no mandatory reporting mechanism for a breach of any provisions of the law and in that regard the Registrar of Societies depended on well-meaning citizens to make voluntary reports or complaints and that necessary remedial measures could only be instituted by the Registrar upon findings based on the lodged report or complaints.

4.6.2.4. Doctrinal Persuasion

322. On the issue of the doctrinal persuasion of the registered religious organizations, the Registrar of Societies submitted that the activities of the religious organizations are guided by the respective constitutions under the objective clause and duly classified as religious in nature in the register as required by the law under section 10 of the Societies Act (1968).

4.6.2.5. Compliance with Administrative Guidelines on the Registration of Religious organisations in Kenya

323. On the matter of compliance, the Registrar of Societies submitted that in addition to the registration requirements under the statute, every application made for registration of religious organization should be accompanied by specific documents in line with Administrative Guidelines on the Registration of Religious organizations in Kenya.

4.6.2.6. Background Checks

324. With respect to registration of churches, Prof. Damaris Parsitau was of the view the National Intelligence Service (NIS) should conduct a background check of religious leaders. In her view, if Kenyans are subjected to integrity checks when applying for jobs, the same should be subjected on those starting religious entities given the influence religious leaders exercised over their followers.

4.6.3. Institutional Framework for Registration and Monitoring of Religious Groups

325. With respect to the current institutional network, the Kenya Conference of Catholic Bishops held the view that the government already had mechanisms to address many emanating issues as result of religion and that the office of the ODPP, Registrar of Societies and existence of well-organized umbrella bodies such as the Kenya Conference of Catholic Bishops, National Council of Churches, Supreme Council of Kenya Muslims, Evangelical Alliance of Kenya and the Hindu Council of Kenya were adequate to provide mechanisms to confront challenges arising as a result of religion.

326. The Evangelical Alliance of Kenya also supported self-regulation and made additional proposals to the Committee with respect to the need for an additional institutional framework. The Evangelical Alliance of Kenya (EAK) was of the view that there should be separation of the regulation of religious bodies from the Societies Act proposing that all religious institutions should submit to an umbrella body which would be mandated to guide self-regulation and those institutions not under the umbrella body be made subject to strict monitoring by relevant government bodies. The EAK further submitted that churches and organizations should submit a Constitution and policy documents covering such subject as conflict of interest policy, safeguarding policy, safety and security, integrity policy, whistleblowing policy, modern slavery policy, gender policy, duty of care policy, finance policy, human resource policy procurement policy and a code of conduct.
327. Local religious leaders from Kilifi County recommended that a Commission similar to Constitutional Commissions established in Chapter 15 of the Constitution of Kenya for the registration and regulation of Churches. In their view, that will prevent infiltration of doctrines that go against Christianity. The Commission members should come from diverse backgrounds. Additionally, it was important that all churches should be under an umbrella body.
328. In line with proposals for State regulation, the Law Society of Kenya submitted that establishing independent bodies, such as religious watchdog groups or ombudsman offices, could help ensure accountability and prevent extreme indoctrination. These bodies can investigate complaints, monitor religious organizations' activities, and provide a platform for individuals to voice concerns.
329. The Office of the Director of Public Prosecutions proposed that inter-agency collaboration should be strengthened to enhance efficiency in detection, prevention, investigation, prosecution and adjudication of complex crimes.
330. The Kilifi County Assembly Committee recommended that to guarantee full realization of Article 27(6) of the Constitution of Kenya, 2010, the State should come up with a regulatory body to oversee the registration and conduct of religious institutions and criminalize any church or person whose enjoyment of the freedom of worship discriminates on the rights of women and children. The Committee further submitted that there is need to strengthen the coordination of the two levels of government on security matters and fast track the implementation of section 41 of the National Police Service Act of 2011.
331. With respect to health security risks posed by new religious movements, Prof. Damaris Parsitau proposed a multi-agency and holistic approach including the Ministry of Health and Ministry of Interior and National Administration to monitor the nature of national health security risks the teachings of the some of the churches pose to its

members. This concerns the abandonment of medication of HIV/ AIDS, cancer, diabetes and other terminal illnesses which threaten gains made by the government over the years.

332. Further, Prof. Damaris Parsitau proposed the establishment of a ‘*Cultism Watch and Research and Surveillance Observatory*’ on New Religious Movements. She submitted that there are many that watch and surveil Islamic Inspired Terrorism, the same can be done for Christian and other faiths that pose security risks to the public. There has been a skewed focus on Islamic inspired radicalization at the expense of Christian radicalization. The proposed Observatory would be a think tank and policy observatory with the role to study cults and monitor religious authoritarianism. This is in recognition that religion can be a force for good or evil with implications for National security. She informed the Committee that there is need to focus attention on regulation of religious authoritarianism in collaboration with academics, national intelligence agencies and policy think tanks

4.6.4. Regulation on Operations of Religious Organisations

4.6.4.1. Administrative Operations

333. Prof. Damaris Parsitau was of the view that churches must also have systems of accountability in place, for example boards.

4.6.4.2. Financial Probity and Taxation

334. The Kilifi County Assembly Committee noted that there was deliberate misinterpretation of scripture by religious leaders for personal and selfish gain as well as a gap in financial accountability of religious institution.
335. The Law Society of Kenya submitted that requiring religious organizations to be transparent about their activities, teachings, and funding sources can help identify any potential signs of extreme indoctrination. It informed the Committee the government can create platforms for reporting and sharing information regarding suspicious activities, enabling concerned individuals to come forward.
336. Similarly, Prof. Damaris Parsitau was of the view that church accounts should be audited and should pay taxes unless they provide health and education services.

4.6.5. Theological Education and Training for Religious Leaders

337. The Committee received a range of submission on whether regulations should require educational qualifications and/or religious training for religious leaders heading religious organisations. Some of the key issues that arose in the interaction with stakeholders included-

4.6.5.1. Minimum Level of Education for Religious Leaders

338. The Association for Christian Theological Education in Africa (ACTEA) appeared before the Committee on 19th July, 2023 and submitted that the requirements to qualify

as a preacher/pastor, ought not to be limited to the paper knowledge but rather, occupational competencies; which should go beyond academic knowledge to vocational skills, disposition, and abilities to do the job required.

339. The Association for Christian Theological Education in Africa further informed the Committee that there are people who make excellent preachers by virtue of their oratory skills, but are not faithful to the sacred text. This category are best encouraged to acquire training so that they do not mislead people. However, it is difficult to demand certain competencies as they are accountable to no one in particular. Pastors on the other hand, bear the responsibility of shepherding congregations and require high accountability to achieve specific ministry proficiencies, which are more of occupational proficiencies and not necessarily academic proficiencies.
340. This view was shared by Prof. Damaris Parsitau who submitted to the Committee that theological education is important for successful spiritual leadership. She noted stated that , “*while it is true that some people are called to serve God, there is also no doubt in my mind that many have called themselves.*” The Committee was informed that religious leaders with titles such as ‘*Prophet’s*’ among other lofty self-proclaimed titles are not accountable to anyone. More so their followers, who do not recognize other religious bodies, have infiltrated state and security agencies. While some Evangelicals and Pentecostals frown upon theological education, it is critically important in the journey of starting a church. There is the role of the ‘Holy Spirit’ but there is also a very clear role of theological education.

4.6.5.2. Establishing an overview of the areas where competencies are needed

341. The Association for Christian Theological Education in Africa submitted to the Committee that competencies are required mostly in: preaching in context, worship and liturgy, Christian outreach, pastoral care and nurture, leadership, community development, organization and development, spiritual formation, counselling among others. These competencies in the long run develop leaders who are grounded in solid Christian theology, faithful to biblical preaching, engage in contextual issues of the society, guide the congregations in adequately responding to issues, voice on issues affecting the church and society (prophetic voice), have ethical values and are dedicated to making Kenya a god-fearing, cohesive, and flourishing country.

4.6.5.3. Institutional Framework on Minimum Competencies for Theological Training

342. The Association for Christian Theological Education proposed that a consortium can be established to provide minimum competencies which are scaled up from the basic, intermediate to advanced level, as the minimum best practice. The Association recommended the formation of a theological education consortium, managed by the

umbrella organizations (The Evangelical Alliance of Kenya (EAK), the National Council of Churches of Kenya (NCCCK), the Organization of African Instituted Churches (OAIC), and the Association for Christian Theological Education in Africa (ACTEA)), and to be registered by the Government. The proposed Consortium would mandate all pastors to acquire the required competencies, and to partner with Association for Christian Theological Education in Africa, as validator of program, to develop modular training for pastors, offered through Association for Christian Theological Education in Africa's Open and Distance Learning platform or other platforms agreed upon by the Consortium.

4.6.5.4. Identifying how and where the competencies will be acquired

343. The Association for Christian Theological Education in African highlighted that competencies can be acquired through formal or non-formal theological education. However, the majority of pastors who are already practising did not gain their competencies through formal theological education. Non-formal theological education provides an avenue to credential pastors so that they achieve the desired competencies. The Competency-Based Theological Education (CBTE), which emanates from Competency-Based Education, is regarded as a viable avenue to prepare ministers to serve the church for the transformation of societies.
344. The Association for Christian Theological Education in African informed the Ad Hoc Committee that the Competency-Based Theological Education (CBTE) is a paradigm shift from the traditional curriculum, as it is customized, communal and contextualized by students and provides a way to educate those who are already in ministry. Competency-Based Theological Education adds a third component such that we have: “know” (content), “do” (craft), and “being” (character).
345. With regard to qualifying a person to be a pastor once they have undergone training, the Association of for Christian Theological Education in Africa submitted that this alone is not a guarantee, but incorporation of other ways including continuous improvement involving competency based theology, developing better systems of accountability, streamlining the religious policies and laws of theology as well as developing a standard curriculum for all religious organizations was also needed.

4.6.6. Standard Theological Curriculum for Theological Education

346. The Association for Christian Theological Education in Africa were of the view that that the current theological curricula is colonized, as most theological institutions in Kenya operate as if they are training ministers for the Church in America or Europe. The Director argued that this kind of Eurocentric approach undermined the development of indigenous faith, failing to ground it on the African mind and cultural fabric. The current curriculum content and pedagogy of theology neither meets the needs of diverse audience nor feature contemporary issues such as poverty, corruption, extremism, tribal conflicts, the health crisis, and moral decadence.

347. The Association informed the Committee that it was needful for today's theological curriculum to reflect the new shift in education, as it is unacceptable for seminaries to import curriculums without connection to local contexts. Theological education must be flexible and relevant as it stays faithful to sacred scripture and context. It must also be dynamic, constantly adjusting and learning from the culture and context and positioning itself to serve that context. In order to scale up formats of theological training, training through the satellite campuses, distance-learning centers and in-service training offered in partnership with churches, would be a better move. Otherwise, formal theological education offered by formal theological institutions, for example, Bible schools, training centers and liberal arts universities with theology departments, will not be able to meet the need for sufficiently trained pastors.
348. The Association for Christian Theological Education in Africa noted that it was impossible to have one uniform curriculum for theological education. Theological institutions should be free to design their curriculums depending on the context and to meet the needs of stakeholders, while holding to the highest educational standards. Churches and their training institutions collaborate on many things but seldom in curriculum delivery where it is very critical for them to share resources to enhance sustainability and accessibility of training.

4.6.7. Recognition and Accreditation of Theological Education

349. The Association for Christian Theological Education in Africa informed the Committee that problems relating to education and training, facing the church can be addressed through quality accredited theological training, but these institutions need to ensure they are professionally managed, equipped, and have the appropriate recognition and accreditation. They submitted that standardization and recognition of theological education in Kenya, by providing prerequisite certification before practice, will assist with the self-regulation of churches. This will help curtail mushrooming of church institutions, especially from the Pentecostal and charismatic persuasions that may not necessarily prioritize theological education.
350. The Association further submitted that by undertaking accreditation, responsible Christian organizations and institutions seek to reassure a diverse public that things are being done properly, in keeping with public standards and expectations, and in ways that will withstand public scrutiny. Academic accreditation can offer substantial benefits to theological schools, both in achieving an appropriate level of operational quality, and in securing an appropriate measure of public credibility for that achievement.

4.7. MAKE ANY OTHER RECOMMENDATION THAT WILL PREVENT MAKE ANY OTHER RECOMMENDATION THAT WILL PREVENT RELIGIOUS ORGANIZATIONS FROM EXTREME INDOCTRINATION OF THEIR FOLLOWERS INCLUDING RADICALIZATION, SPIRITUAL AND FINANCIAL EXPLOITATION

351. With respect to its fifth mandate, the Committee received various proposals relating to the following thematic areas—
- (1) Definition of a Cult and other related terms
 - (2) Mindset of a Cult Leader
 - (3) Characteristics of a Cult
 - (4) Factors Contributing to the Emergence and Growth of Harmful Religious Doctrines
 - (5) Indicators a Person is a Member of a Cult
 - (6) Impact of Harmful Religious Doctrines on Individuals and Society
 - (7) Separation of Church and State in Kenya
 - (8) Prevention of Indoctrination, Radicalisation, Spiritual and Financial Exploitation
 - (9) Mental Health Concerns
 - (10) Protection of Children
 - (11) Education and Awareness
 - (12) Establishing a Memorial Centre in Shakahola

4.7.1. Definition of a Cult and other related terms

352. The Committee sought to understand the definition of a cult and other related terms used to describe religious organisations such as the one ran by Paul Mackenzie. Prof. Damaris Parsitau submitted to the Committee definitions of some of the commonly used terms with a caution that some of the definitions have been politicised and should be used carefully. The definitions include—

Cult	<ul style="list-style-type: none"> • A system of belief directed towards a particular figure or object, for example, a self-appointed leader, prophet or someone with lofty titles.
Sect	<ul style="list-style-type: none"> • A sort of breakaway from a larger religious group
New Religious Movements	<ul style="list-style-type: none"> • All new faiths that have arisen worldwide over the past several centuries
Occult	<ul style="list-style-type: none"> • Mystical, supernatural or magical powers, practices or phenomenon (a secret society viewed as related to witchcraft).
Religious Extremism	<ul style="list-style-type: none"> • A radicalized viewpoint that appropriates the use of violence to force, promote, perpetuate defined ideologies, for example, Al Shabab, Boko Haram, ISIS.
Satanism	<ul style="list-style-type: none"> • The worship or veneration of an entity called Satan, the devil, Lucifer, ('shetani'), a creation of monotheistic faiths which denotes an evil character.
Radicalization	<ul style="list-style-type: none"> • A process of encouraging individuals to develop extreme views and beliefs in support of a terrorist group and their activities.
Millennialism	<ul style="list-style-type: none"> • A Christian belief that the world will end in a thousand years when the Lord returns again, also known as end-time beliefs.
New Age Movements	<ul style="list-style-type: none"> • New spiritual, therapeutic practices such as wellness, yogic practices, breathing for calmness which many people relate to paganism but are really based on Buddhism and Asiatic religions.

Figure 5: Definition of Common Terms

4.7.2. Mindset of a Cult Leader

353. The Kenya Association of Professional Counsellors appeared before the Committee on 30th June, 2023 and submitted that cult leaders exhibit certain psychological traits that contribute to their ability to exert influence and control over their followers. These individuals often possess charismatic qualities, exceptional persuasion skills and a strong sense of self-belief. They are driven by a deep need for power, control and adoration, which fuels their desire to establish and maintain a following. Cult leaders can display a range of characteristics, including narcissism, grandiosity and a lack of empathy. They are often highly manipulative, employing psychological techniques such as love bombing, isolation and manipulation of information to gain and maintain control over their followers. They may also demonstrate a charismatic persona, intelligence, and strong communication skills, which help them attract and retain followers.

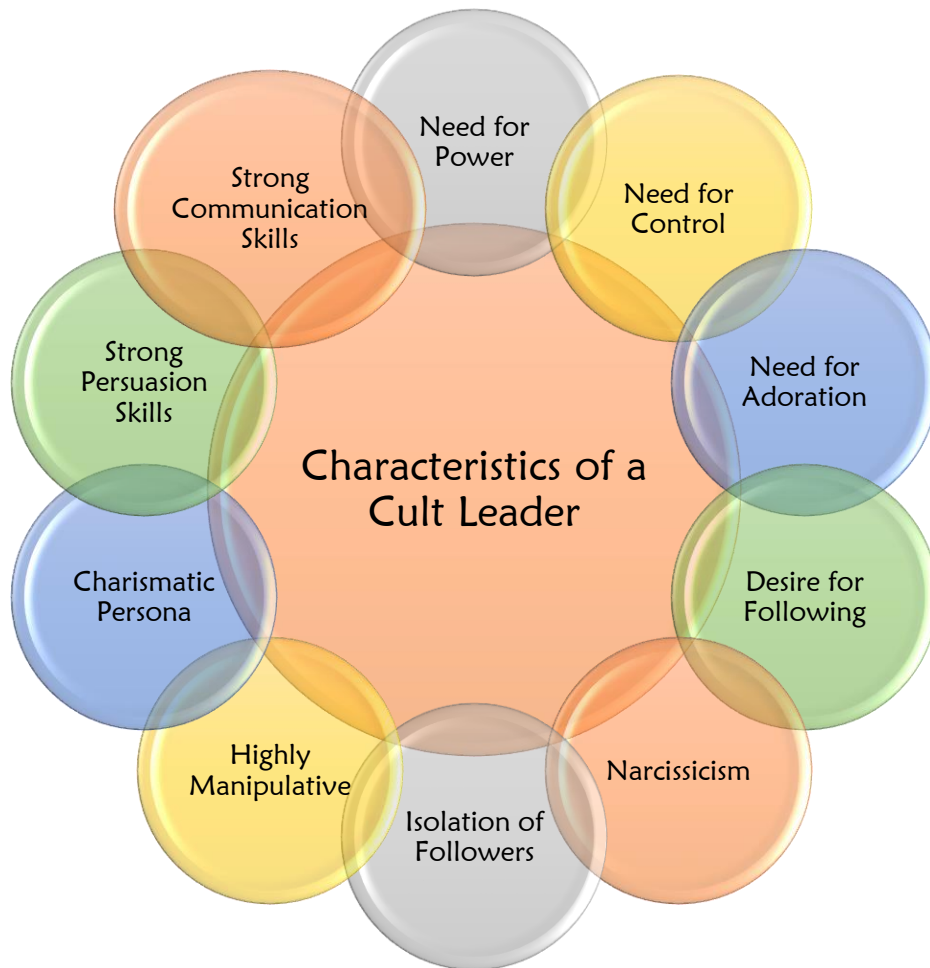


Figure 6: Characteristics of a Cult Leader

354. The Kenya Association of Professional Counsellors further submitted that cult leaders employ various manipulative techniques to control their followers. These techniques include deception, coercive persuasion, emotional manipulation and exploitation of

vulnerabilities. They may instill fear, guilt and dependency in their followers, making it difficult for them to question or leave the group. Narcissism and grandiosity are prevalent traits in cult leaders. They have an inflated sense of self-importance, a need for constant admiration and a lack of empathy for others. These traits drive them to seek power and control over others, using their followers as sources of validation and adulation.

355. The Association further submitted that several psychological factors contribute to the emergence and behavior of cult leaders. These include childhood experiences, personality disorders, unresolved psychological conflicts and a desire for significance and belonging. Understanding these factors is crucial for comprehending the motivations and actions of cult leaders.

4.7.2.1. Emergence, Recruitment, and Indoctrination Strategies of Cult Leaders

356. The Kenya Association of Professional Counsellors submitted that cults typically emerge through a gradual process that involves the charismatic leader gaining a following and establishing a set of beliefs and practices. This process often begins with the leader targeting vulnerable individuals who are searching for meaning, purpose, or solutions to their problems. The leader presents themselves as the answer to these needs and gradually expands their influence and control.
357. The Association further submitted that cult leaders employ various psychological manipulation techniques to recruit new members. These techniques may include love bombing, where individuals are showered with affection and attention, creating a sense of belonging and dependency. The leader may also isolate new members from their support networks, making it easier to control and manipulate them.
358. Once recruited, cult leaders use a combination of psychological and social control techniques to maintain their followers' allegiance. These techniques include strict adherence to rules and regulations, groupthink dynamics, manipulation of information and the creation of an us-versus-them mentality. Through these methods, leaders ensure the unquestioning loyalty and obedience of their members. Social influence and group dynamics play a significant role in the indoctrination of cult members.
359. Cult leaders create an environment that fosters conformity, obedience, and group cohesion. This environment reinforces the leader's authority and suppresses dissenting opinions, making it challenging for members to critically evaluate their beliefs and actions.

4.7.3. Characteristics of a Cult

360. Prof. Damaris Parsitau informed the Committee that the characteristics of a cult are as follows—
- (1) presence of charismatic leadership whether dead or alive;

- (2) authoritarianism/autocratic where the leader is not questioned or held accountable;
- (3) exclusive understanding of salvation;
- (4) ingroup solidarity and outgroup hostility;
- (5) conservative and highly puritanical conception of ritual and moral purity;
- (6) outward markers of religious or cultural membership, for example, distinct dressing;
- (7) extreme patriarchal control of women and girls;
- (8) stringent programs for socialisation of new members;
- (9) literal interpretation of religious texts often relying on leadership efforts;
- (10) apocalyptic or other end-time related teachings;
- (11) use of threats, intimidation and coercion to police membership; and
- (12) aggressive proselytization.

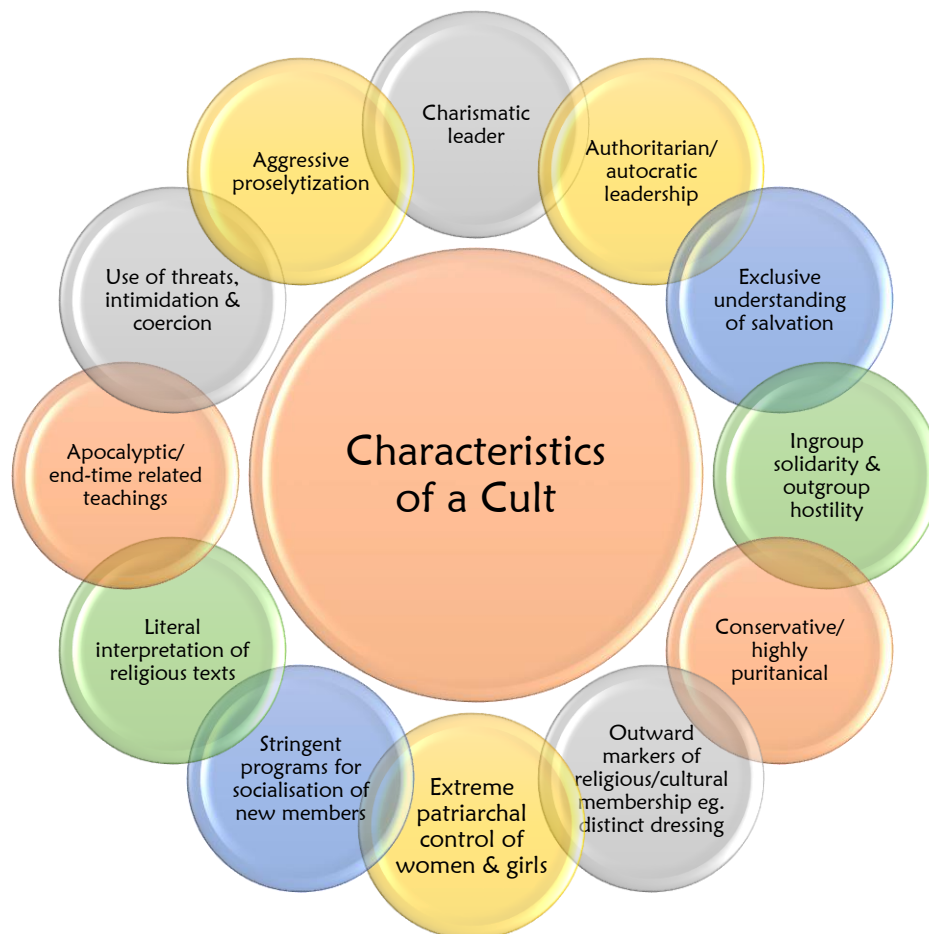


Figure 7: Characteristics of Cults

4.7.4. Factors Contributing to the Emergence and Growth of Harmful Religious Doctrines

4.7.4.1. Sociocultural Factors and Changing Religious Landscape

361. According to the Kenya Association of Professional Counsellors, several sociocultural factors contribute to the emergence and growth of harmful religious doctrines. These include societal changes, such as increased individualism, globalization and the erosion of traditional belief systems. Rapid social and technological advancements have created fertile ground for the proliferation of new religious movements, some of which may promote harmful ideologies.
362. According to the Prof. Damaris Parsitau, New Religious Movements often emerge during periods of rapid social change and find a following among marginalized groups of society. They provide both practical and psychological support for people with their social, cultural and economic problems. Hard economic factors lead to despair and people become vulnerable to cults and cultic practices. Additionally, people with psychological issues, guilt and trauma are susceptible to cults.
363. New Religious Movements emerge from human creativity and capacity for religious expression, providing spiritual meaning and social connection for their members, just as mainstream religious groups do. These movements also provide arenas for theological and social experimentation. Some of these experiments are successful and result in lasting religious organisations that exert broad cultural and theological influences, while some experiments are less successful, resulting in small groups that are not influential or lasting. A few produce groups whose beliefs and practices are deemed utterly abhorrent by the wider society. New Religious Movements may provide alternative views in terms of theology, leadership, authority structures, gender roles, family and sexual relationships and religious practices.
364. Prof. Damaris Parsitau submitted to the Committee that in the course of her academic research, based on interviews and conversations with former cult members and expert opinions, several reasons as to who joins cults can be deduced. She further informed the Committee that any person can be a candidate to join a cult irrespective of class, education, gender and socio-economic status. The membership may include professors, medical doctors, senior government officials among other professionals.
365. The Committee was also informed that cults like to recruit not just vulnerable groups but also the cream of society who offer societal prestige, acceptance, respectability, legitimacy and financial resources to be exploited. Cults also use members to recruit others friends, family members and fellow cult members. However, most cult members are vulnerable groups, people at the margins or fringes of society, people in search of meaning, happiness, social change, belonging or community.
366. The Committee was further informed that cults might look like a typical religious organization however upon close examination, it emerges that cults exist to serve and worship the main ‘figurehead’ who might address themselves by lofty titles.

367. Further, New Religious Movements have been founded by prophets with new revelations, or messiahs who claim to have superhuman power to create a millennial collective salvation while many others consist of movements of people who have contributed to an alternative worldview, such as Christian identity. New Religious Movements also provide social spaces for experimentation in alternative theologies, gender roles, sexual relations, leadership structures and group organization.

4.7.4.2. Psychological Needs and Vulnerabilities

368. The Kenya Association of Professional Counsellors informed the Committee that individuals may be drawn to harmful religious doctrines due to unmet psychological needs, such as the need for meaning, purpose, belonging, or identity. Cult leaders exploit these vulnerabilities, offering a seemingly fulfilling solution. The allure of belonging to a community and having a clear sense of purpose makes individuals more susceptible to indoctrination.

369. Prof. Damaris Parsitau informed the Committee that cults create alternative communities from traditional communities, alternative family and kinship structures. Further, there are individual who join cults without their knowledge. Nevertheless, it cannot be assumed that everyone who joins cults lacks agency to understand their decision to join a cult since some willingly decide they want to be part of that exclusive community.

4.7.4.3. Exploitation of Human Cognitive Biases

370. The Kenya Association of Professional Counsellors informed the Committee that cult leaders capitalize on various cognitive biases that influence human thinking and decision-making. These biases include confirmation bias, where individuals seek information that confirms their existing beliefs, and the halo effect, where positive attributes accredited to their leader extend to their teachings and the group as a whole. Exploiting these biases enhances the persuasive power of harmful religious doctrines.

4.7.4.4. Role of Internet and Social Media in the Proliferation of Harmful Doctrines

371. The advent of the internet and social media has facilitated the rapid spread and dissemination of harmful religious doctrines. Online platforms provide cult leaders with unparalleled access to a global audience, enabling them to recruit and indoctrinate individuals on a large scale. The internet also acts as an echo chamber, reinforcing and amplifying extremist beliefs.

4.7.5. Indicators a Person is a Member of a Cult

372. Prof. Damaris Parsitau submitted that some of the indicators that a person is part of a cult include—

- (a) an unhealthy obsession with a cult leader;
- (b) giving up their thoughts completely;
- (c) fiercely defending a cult leader from critiques; and

(d) inability to question a leader or getting intolerant, aggressive, defensive when people criticize their cult leader.

373. Further, Prof. Damaris Parsitau submitted that anyone can be unknowingly swayed by a cult because they employ tailored strategies to entice individuals however cults prey on more vulnerable members-especially women and children, individuals going through stressful times, loss of loved ones, loss of jobs, livelihoods, among others. Those facing life complexities can feel overwhelmed by their circumstances and cults offer a way out.

4.7.6. Impact of Harmful Religious Doctrines on Individuals and Society

4.7.6.1. Psychological Effects on Cult Members

374. According to the Kenya Association of Professional Counsellors harmful religious doctrines can have profound psychological effects on cult members. They may experience cognitive dissonance, internal conflict, and a distorted sense of reality. Cult-induced beliefs and practices can lead to feelings of guilt, shame, and fear, as well as a loss of personal autonomy and identity.

4.7.6.2. Social and Interpersonal Consequences

375. The Kenya Association of Professional Counsellor further submitted that a harmful religious group can result in social isolation and strained relationships with friends and family outside the group. Cult leaders often discourage contact with non-members and may even employ tactics to sever these connections. This isolation can lead to a breakdown of social support systems and hinder reintegration into society.

4.7.6.3. Emotional Manipulation and Trauma

376. The Kenya Association of Professional Counsellors submitted to the Committee that harmful religious doctrines frequently employ emotional manipulation tactics, such as gaslighting and coercive control. Cult members may be subjected to psychological abuse, manipulation of their emotions, and trauma-inducing practices. This emotional manipulation can have long-lasting effects on the mental well-being of individuals.

4.7.6.4. Economic Exploitation and Financial Consequences

377. The Association further submitted that cult leaders often exploit their followers financially. They may require significant financial contributions, manipulate members into giving up their assets or engage in fraudulent practices. This financial exploitation can result in severe economic consequences for individuals, including debt, poverty, and financial ruin.

4.7.6.5. Risks and dangers were identified as posed to security and public order

378. Prof. Damaris Parsitau submitted that New Religious Movements pose the following risks and dangers to security and public order—

(1) acceptance of the leaders' instructions without question;

- (2) isolation of members from their social safety networks, families and friends, communities so they have no one to turn to;
- (3) financial exploitation to support the movements and lifestyle of leaders;
- (4) sexual exploitation of women and girls;
- (5) emotional/psychological trauma;
- (6) mass murder and injury to followers;
- (7) threats and abuse of those who desert or question authorities;
- (8) cult members who desire to leave are often threatened with eternal damnation, hell, death, curses, cancers, fatal road accidents if they leave where guilt is used as a means of control;
- (9) deterioration of the health of sick followers who are convinced to stop taking medication and burdening of country's health sector where some cults place restrictions on members to access health care, education, elections, civil disobedience;
- (10) false hope and unfulfilled promises on prosperity and success in life and work;
- (11) threat to national security should member take up arms against national governments;
- (12) religious authority plays a central role in radicalization and recruitment of followers in cults leading to massive loss of life like fasting to death;
- (13) they completely curtail people's personal liberties in a way that is baffling including what they eat or drink, who they talk to, how they dress, who they marry, how they entertain themselves, that is, no television, social media, members are prohibited from playing certain music;
- (14) cults destroy and break people's lives and they come out worse than when they entered the cult whether financially, psychologically, relationally or some combination of all these; and
- (15) those who escape come out destroyed and it might take a long time to heal and adjust to normal life. in this regard.

4.7.7. Separation of Church and State in Kenya

379. Prof. Damaris Parsitau observed that in Kenya, there were indications of possible militarisation of religion and politicisation of clergy who are given State security and presidential like motorcades. This raises concerns on whether there is a clear separation between religion and the State as envisaged by the Constitution of Kenya. The State can work together with religious organisation as development partners and opinion shapers but there has to be a clear separation between the two domains.
380. Prof. Damaris Parsitau held the view that when spiritual leaders are close to the State it compromises accountability. Co-option of religious leaders by the State is inherently problematic and therefore some cautious distance is prudent. Nevertheless, respect of religious leaders as key elements in civil society occupying a critical space and playing important roles in the lives of members is important but there should be some sort of control.

4.7.8. Prevention of Indoctrination, Radicalisation, Spiritual and Financial Exploitation

381. The Law Society of Kenya submitted that there was need to encourage the presence of diverse or alternative religious voices and perspectives to prevent extreme indoctrination. This can be done by supporting the establishment of religious organizations that adhere to moderate beliefs and promoting interfaith dialogue and cooperation. The Law Society of Kenya further submitted that providing individuals with the necessary tools and resources to critically evaluate and question religious teachings can help prevent extreme indoctrination. Promoting media literacy, critical thinking, and providing psychological support for individuals who have been subjected to extreme indoctrination are essential in empowering them to resist and challenge extremist ideologies. It is important to note that these measures should be implemented while respecting freedom of religion and expression, ensuring that legitimate religious practices are not curtailed.

4.7.9. Mental Health Concerns

382. The Kenya Psychiatric Association emphasised the need to strengthen mental health support and services to Shakahola cult survivors, their relatives and the deceased and all professionals involved in exhumations, reporting and support.
383. The Kenya National Commission on Human Rights on their part recommended that the Ministry of health should invest in mental health framework for handling mass atrocities and deploy mental health experts including psychiatrists and trauma counselors towards proper and effective de-radicalization and counseling of the survivors and all persons engaged in the tragedy.

4.7.10. Protection of Children

384. The Kenya National Commission on Human Rights submitted that the Ministry of Health partners with other key agencies including the Department of Children Services, in establishing rehabilitation, psychosocial and reintegration programs for children and adults exposed to radical. Further, County Governments should invest in rescue centers for adults and children.

4.7.11. Education and Awareness

4.7.11.1. Sensitization programmes to create awareness among citizenry on the threats of radicalization

385. The Office of the Director of Public Prosecution proposed that the National and County governments to undertake sensitization programmes to create awareness among citizenry on the threats of radicalisation.

386. The Association for Christian Theological Education in Africa submitted that the State and religious institutions develops alternative narratives to challenge dominant narratives that foster radicalisation, extremism, and indoctrination. Further, alternative narratives need to be inculcated into the academic, social, and religious fabric of the nation.

4.7.11.2. Training of actors in the Criminal Justice System

387. The Office of the Director of Public Prosecution proposed that there was need for all the actors in the criminal justice system to keep up with the emerging trends in crimes including joint trainings and continuous capacity building amongst the actors to enable them to effectively handle the increasing number of complex and emerging crimes.

4.7.11.3. Religious Extremism and Indoctrination in the School Curricula

388. The Law Society of Kenya submitted that with respect to education and awareness, there was need to develop educational programs to promote critical thinking, tolerance, and respect for diverse beliefs to help individuals resist extreme indoctrination. This includes educating children and adults about different religions and worldviews, encouraging dialogue and understanding and fostering religious literacy.

389. The Association for Christian Theological Education in Africa emphasised on the need to incorporate content on religious extremism and indoctrination in the primary and secondary schools' curriculum. Children in their early ages have malleable and impressionable minds, thus, their personality and worldview begins to form, as what they are taught contributes to what they become. The sanctity of human life, human identity, sexuality as well as citizenship, are possible areas that could address such extremism and indoctrination. In addition, adoption of life skills such as critical thinking, religious consciousness and entrepreneurship, could help mitigate against the social, economic and political reasons that may nourish extremism, radicalization, and indoctrination.

4.7.12. Establish a Memorial Centre at Shakahola

390. The Kilifi County Assembly Committee recommended that there be established a memorial centre at Shakahola to bury or preserve those bodies that have been rejected by their families as a result of traditional and cultural stigmatization.

CHAPTER FIVE

OBSERVATIONS AND RECOMMENDATIONS

5.0 OBSERVATIONS OF THE COMMITTEE

391. The Committee observed that as at 13th October, 2023, four hundred and twenty-nine (429) had died for reasons related to the Shakahola tragedy in Kilifi County and the number was likely to rise. Kenya has experienced deaths linked to religious extremism in the past, however, the Shakahola tragedy has registered the highest number of fatalities in Kenyan history.

5.1.MANDATE 1: INVESTIGATE THE CIRCUMSTANCES LEADING TO THE DEATH OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH LED BY ONE PAUL MACKENZIE NTHENGE IN SHAKAHOLA VILLAGE, KILIFI COUNTY

392. Following stakeholder engagements and an analysis of the submissions from the various stakeholders the Committee made the following observations pursuant to its mandate—

5.1.1. Who is Paul Nthenge Mackenzie?

393. The Committee confirmed the identity of Paul Mackenzie who was born in 1976 in Vanga, Lunga Lunga in Kwale County. In his formative years, he attended Mwalewa Primary School and later proceeded to Lukole Secondary School in Kwale County. In 2003, he settled in Furunzi in Malindi where he worked as a taxi driver. He has been married three times. In 2002, he married his first wife and had two children currently aged twenty (20) and fifteen (15) years prior to her death in 2009. In 2010, he married his second wife and had four (4) children prior to her death in 2018. In 2019, he married his third wife with whom they have one child. The Committee observed that the suspicious death of his two wives required further investigation.

5.1.2. Recruitment by Good News International Ministries

394. The Committee observed that most followers of Good News International Ministries were enticed by secret agents particularly in Vihiga County to go for prayers at Good News International Church. In Kisumu County most meetings were held in random trading centres. The Committee established that followers were indoctrinated and radicalized to destroy vital documents among them National Identity Cards, Birth Certificates, Title Deeds, Academic Certificates, and Marriage Certificates. It was observed that followers changed their names/identities upon joining the Church.
395. The Committee further observed that based on information received from academics and mental health professionals, anyone is susceptible to join a cult regardless of class,

education, gender and socio-economic status. The Committee further observed that, as seen in the case of Paul Mackenzie who intensified his recruitment over the COVID-19 period, cult leaders prey on the vulnerabilities of their followers who are searching for meaning, purpose, or solutions to their problems.

396. The Committee noted that cult leaders employ psychological and manipulation techniques to recruit new members which include strict adherence to rules and regulations, groupthink dynamics, manipulation of information and the creation of an us-versus-them mentality. Through these methods, leaders ensure the unquestioning loyalty and obedience of their members. Additionally, cult leaders create an environment that fosters conformity, obedience, and group cohesion. This environment reinforces the leader's authority and suppresses dissenting opinions, making it challenging for members to critically evaluate their beliefs and actions.
397. The Committee observed that some of the solutions offered to counter such recruitment, manipulation and radicalisation based on harmful religious doctrines included the review of management of religious institutions, the training of religious leaders, developing educational programmes to promote critical thinking, tolerance and respect for diverse beliefs as well as sensitisation programmes at the national and county level.

5.1.3. Role of Paul Mackenzie in the death of the followers of Good News International Ministries

398. Based on the investigations by the Committee and information availed to the Committee, the Committee has reasonable cause to believe that Paul Mackenzie contributed/caused directly or indirectly to the deaths of over four hundred and twenty-nine (429) people. Paul Mackenzie—
- (1) recruited hundreds of vulnerable people through agents in different parts of the country who systematically lured followers to their death through deceptive recruitment tactics which he intensified during the uncertainty and anxiety occasioned by the COVID-19 pandemic;
 - (2) manipulated his followers by promising them land and financially exploited them by requiring them to sell their assets and hand over the proceeds to him;
 - (3) created an armed gang which he employed to violently enforce his starvation doctrine by attacking and killing followers who changed their minds about willingly starve themselves to death;
 - (4) set up a makeshift court where he held mock trials of followers who had refused to comply with starvation orders. The orders from this makeshift court would be enforced by the armed gang;
 - (5) exploited the vulnerability and impressionable minds of children who had no agency and subjected them to painful and slow death by starvation;
 - (6) violated the fundamental human rights and freedoms of his followers including the right to life, right to human dignity, freedom and security of persons,

- subjected them to physical and psychological torture and cruel, inhuman and degrading treatment, denied them access to health care, shelter and food in clear violation of Articles 26, 28, 29, 43, 53 of the Constitution of Kenya and a number of international human rights conventions;
- (7) denied children access to health care, basic education, basic nutrition, shelter and the right to be protected from abuse and neglect in clear violation of Article 53 of the Constitution of Kenya, the Children’s Act, 2022 and the Basic Education Act, 2013;
 - (8) intentionally isolated his followers by moving into Shakahola Forest which is a remote inaccessible area with no access to social services and caused his followers to cut links with family members thus leaving them dependent and without protection;
 - (9) was arrested in March 2023, on allegations of murder of two children who had succumbed to starvation and suffocation. Following arraignment in Court, Mackenzie was granted a measly bail of Kshs. 10,000/= . After he left protective custody, Paul Mackenzie intensified the starvation orders and with no regard for human life continued to cause the deaths and concealment of hundreds of bodies of his deceased followers;
 - (10) as part of concealing the mass graves where his followers had been buried, Paul Mackenzie planted vegetables on the graves;
 - (11) while his followers faced a slow and painful death through starvation, Paul Mackenzie and his gang of violent enforcers enjoyed elaborate meals as evidenced by menus and cooking apparatus found at his house in Shakahola Forest;
 - (12) preached through a variety of media channels to disseminate his harmful doctrines including social media platforms such as You Tube;
 - (13) spread anti-government rhetoric and opposed government policy amongst his followers including preaching against deworming, national census and *Huduma Namba* which he called “*the mark of the beast*”;
 - (14) used virtual links and social media to foster foreign links with “Voice In The Desert”, an Australian cult founded by Dave and Sherry Mackay and hosted their associate in Makongeni area, Nairobi County who delivered summons echoing anti-government sentiments, particularly stating that *Huduma Namba* was “*the mark of the beast*”;
 - (15) after his arrest without any iota of remorse and in full knowledge of the impact of his heinous acts further intimidated the public in his now infamous brazen remark, “*kitawaramba*” loosely translated to mean “*it will catch up with you*”;
 - (16) acting in concert with his goons, savagely and sadistically forced starvation of his followers. During the rescue process by security agencies, some of the survivors were found locked in their houses emaciated and frail, naked and their legs and hands tied with either turbans or ropes. Paul Mackenzie also buried victims who were still living but near death as a result of starvation with a view to terminate their lives;

- (17) strategically and systematically targeted and isolated extended families, and as a result of his atrocious actions, entire families perished leaving relatives devastated. In some instances, entire lineages were wiped out;
- (18) radicalised and indoctrinated his followers causing them long-term psychological, physical, emotional harm which will require long-term care and rehabilitation;
- (19) led to the stigmatisation of his followers and their families in their communities;
- (20) systematically concealed properties and money that he fraudulently and unlawfully acquired from his victims; and
- (21) Paul Mackenzie's gruesome actions caused a long term negative social, cultural, ecological and environmental impact on the local community in Shakahola area.

5.1.4. Rescue Operations at Shakahola Forest

399. The Committee noted that the exhumed bodies were wrapped in either bed sheets, blankets or baby shawls for children and they had their limbs tied and some were buried in mass graves.
400. The Committee observed that the rescue operation has so far led to the rescue of 67 adults and 27 children, who were all initially placed at the rescue centre as survivors. Four persons were placed under the witness protection programme, three adults and one child. The 67 adults, hosted in a rescue centre had adopted radical and apocalyptic teachings of Paul Mackenzie and continued manifesting the same through their rebellious acts in the centre including renewed fasting and singing of dirges. This has also been manifested by their refusal to take meals. Even while in custody, the Committee observed that the survivors were taking direct instructions from Mr. Mackenzie. As a result of this refusal to eat, one suspect died on 21st June, 2023 due to malnutrition. A court order was sought to have Paul Mackenzie secluded so that he does not continue brainwashing and the request was granted.
401. The Committee noted that impact of radicalization and trauma on the rescued adults and children had slowed down the pace of investigations. All the 67 adults had children and/or spouses living with them in Shakahola forest whose whereabouts they could not satisfactorily account for and are believed to be dead. Therefore, all the 67 survivors were automatically transformed to suspects because they could not account for their siblings and/or spouses. Consequently, an application was made through a miscellaneous application filed at Shanzu Law courts, where the authorities requested that all the 67 rescued adults be remanded in custody and the request was granted.
402. The Committee noted that several statements have so far been recorded from victims, witnesses, suspects and professional practitioners from various fields of expertise. A total of 30 adult suspects arraigned in Shanzu Law Courts are in custody, 20 among them are in custody pursuant to the court order. Equally, several relatives of the victims of missing persons have recorded their statements and volunteered DNA samples for purposes of matching and identification.

RECOMMENDATIONS

403. Based on the above observations the Committee recommends that-

- (1) The Director of Criminal Investigations expeditiously investigates the atrocious and heinous actions committed by Paul Mackenzie with a view to recommending his prosecution within thirty (30) days of adoption of this report by the Senate.**
- (2) The Director of Public Prosecutions to prosecute Paul Mackenzie following receipt of the report from the Director of Criminal Investigations.**
- (3) Any individual directly or indirectly connected with, aided or abetted the atrocious and heinous actions committed by Paul Mackenzie be investigated by the Director of Criminal Investigations with a view to recommending their prosecution to the Director of Public Prosecution within thirty (30) days of adoption of this report by the Senate.**
- (4) The Director of Criminal Investigations in conjunction with the Department of Immigration and the Ministry of Foreign Affairs investigates any foreign person or entity connected to the activities of Paul Mackenzie and Good News International Ministries with a view of prosecuting and/or deporting said person and preventing their future entry into the Republic of Kenya within sixty (60) days of adoption of this report by the Senate.**
- (5) The Director of Criminal Investigation in conjunction with the Department of Immigration and the Ministry of Foreign Affairs investigates with a view to expel from the Republic of Kenya any foreign person or entity advancing the doctrines or activities of the entity/group/religious outfit known as ‘A Voice in the Desert’ also known as ‘Jesus Christians’ connected to one Dave and Sherry Mackay and their associates and bar their future entry into the Republic of Kenya within thirty(30) days of adoption of this report by the Senate.**
- (6) The Cabinet Secretary for Interior and National Administration submits a progress report to the Senate on the status of investigations, number of bodies exhumed, number of autopsies conducted, progress of DNA testing and matching, number of survivors reunited with family members, condition of survivors particularly children every thirty (30) days from the date of adoption of this report by the Senate until the completion of investigation and handing over of the final investigation report to the Director of Public Prosecutions.**

- (7) **The Director of Public Prosecutions to pursue the prosecution of the existing charges against Paul Mackenzie as well as lodge fresh formal charges against Paul Mackenzie and other persons revealed to be culpable.**
- (8) **The Cabinet Secretary for Interior and National Administration formulates and issues guidelines setting out criteria for identification of harmful religious doctrines and clear procedures for County Security Committees to monitor and expedite action on intelligence reports pertaining to individuals and religious organisations advancing harmful religious doctrines within ninety (90) days of adoption of this report by the Senate.**
- (9) **Parliament should ensure that a review of the existing regulations in regard to religious organisation be done to be implemented under the Proceeds of Crime and Anti Money Laundering Act, 2009 where religious bodies should report on their financial transactions, the Kenya Information and Communication Act to manage dissemination of information through mass media, the Public Benefits Organisations Act, 2013 to provide a regulatory framework in respect of public benefits organisations and the Prevention of Organised Crimes Act, 2010 to provide for the prevention and punishment of organised crimes and recovery of proceeds of organised criminal groups.**

5.1.5. Good News International Ministries and Good News Media (K) Limited

404. The Committee observed that Good News International Ministries was established in 2003 and registered in 2010 as Good News International Ministries with six officials namely Paul Nthenge Mackenzie as the Chairman, Raphael Riziki Baya as the Vice-Chairman, Smart Derry Mwakalama as the Secretary, Lucia Wanjiku Kinuthia as the Assistant Secretary, Sebastian Kachero as the Treasurer and Alexander Mwema Masango as the Assistant Treasurer.
405. The Committee observed that Good News Media (K) Limited was a private limited liability company registered on 19th April, 2012 and with an office address being Land Reference No. 212 Tanda Road, Malindi. The company's share capital was Kshs. 100,000/= divided into 1,000 shares of Kshs. 100/= each. The directors and shareholders as at 16th June, 2023 were Shedrack Musau Mutiso and Paul Nthenge Mackenzie each with 50 percent shareholding of the total 600 shares issued.
406. The Committee observed that Paul Mackenzie had broadcasted his sermons through a YouTube channel which had 677 videos and over 7,000 subscribers.

407. The Committee observed that there were other ongoing judicial process against Paul Mackenzie and several others and that investigations by the Directorate of Criminal Investigations were still ongoing. The possible culpability of the perpetrators was yet to be determined.
408. The Committee observed that the teachings of Paul Mackenzie were mostly based on doomsday or end-times teachings where he preached that the end of the world would be in August 2023. His followers were asked to fast in order to ‘meet Jesus’. According to his teachings, the children were scheduled to die first, followed by women and then the men were to delay their deaths to help bury bodies before their death. Paul Mackenzie was to ascend to heaven from the centre of Malindi.
409. The Committee observed that Paul Mackenzie was influenced by Dave and Sherry Mackay, who were from Australia and are founders of a cult movement known as the “A Voice in the Desert”. The teachings of this cult included forsaking all private property ownership, surrendering earthly possessions and relocating to an isolated communal place where members serve one master. The foreign links were largely established through virtual links and social media. In 2019, Mackenzie hosted an associate of Dave Mackay who gave a sermon in his church at Makongeni in Nairobi City County. The guest speaker delivered sermons, echoing the anti-government sentiment, specifically *Huduma Namba* terming it as the mark of the beast. He also urged followers to abandon earthly possessions and follow Paul Mackenzie to the ‘promised land’, which was later located in Malindi.
410. The Committee observed that there ought to be a legal framework that guides the activities of foreign religious organisations in Kenya.

RECOMMENDATIONS

411. Based on the above observations the Committee recommends-
- (1) **That the Cabinet Secretary for Interior and National Administration shuts down any physical premises of Good News International Ministries and Good News Media (K) Limited and their affiliates operating within the Republic of Kenya within thirty (30) days of adoption of this report by the Senate.**
 - (2) **The Director of Criminal Investigations—**
 - (a) **investigates the Good News International Ministries and Good News Media (K) Limited with a view to prosecute the officials, directors, shareholders and any associates linked to the entities and upon conviction be liable to the most severe punishment available in law; and**

- (b) investigates Good News International Ministries and Good News Media (K) Limited with a view to establish its cash flows, foreign links, assets and possibility of money laundering.**
- (3) The Director of Criminal Investigations and the Director of Public Prosecutions initiates the process of freezing the assets belonging to Paul Mackenzie and any of his associates and the proceeds be used to compensate the families of deceased victims.**
 - (4) The Cabinet Secretary for Interior and National Administration declares Good News International Ministries and Good News Media (K) Limited organized criminal organizations pursuant to section 22 of the Prevention of Organised Crimes Act, 2010 within thirty (30) days of adoption of this report by the Senate.**
 - (5) The Attorney General declares Good News International Ministries a society dangerous to the good government of the Republic of Kenya pursuant to section 4 (1) (ii) of the Societies Act (Cap 108) within thirty (30) days of adoption of this report by the Senate.**
 - (6) The Director of Criminal Investigations in conjunction with the Communications Authority investigates with a view to recommend prosecution of any person or entity involved in the filming, production, dissemination or distribution of media content in any form and on any media platform that advances the doctrine of Paul Mackenzie or his associates, Good News International Ministries and Good News Media (K) Limited within thirty (30) days of adoption of this report by the Senate.**
 - (7) The Registrar of Societies deregisters Good News International Ministries and bars Paul Mackenzie and all the officials of Good News International Ministries from registering a society or any other legal entity.**
 - (8) The Registrar of Companies deregisters Good News Media (K) Limited and bars Paul Mackenzie and directors of Good News Media (K) Limited from holding a director's position in any other registered company.**
 - (9) The Cabinet Secretary for Interior and National Administration should facilitate the survivors to regain their vital documents such as National Identity Cards, Birth Certificates, Title Deeds, Academic Certificates and Marriage Certificates which were destroyed as a result of the indoctrination.**

- (10) The Communications Authority engages YouTube, Facebook and other social media networks and sites that have content associated with Paul Nthenge Mackenzie and his teachings with a view to permanently delete such existing content and remove the accounts.
- (11) The Communications Authority establishes an engagement framework with popular social media platforms to mitigate the spread of harmful radical ideology, doctrines, misinformation and fake news.
- (12) The Communications Authority and Media Council of Kenya ensures that all media platforms in Kenya deplatform Paul Nthenge Mackenzie and his associates and refrain from giving any interviews and attention that would promote his teachings or lead to the recruitment of more followers.

5.2. MANDATE 2: INVESTIGATE THE ROLE PLAYED BY ONE PAUL MACKENZIE OF THE GOOD NEWS INTERNATIONAL CHURCH, HIS PASTORAL TEAM AND THE KILIFI COUNTY SECURITY COMMITTEE IN AIDING AND ABETTING THE DEATHS OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH IN SHAKAHOLA, KILIFI COUNTY

412. Following stakeholder engagements and an analysis of the submissions from the various stakeholders the Committee made the following observations pursuant to its mandate—

5.2.1. Failure in the Criminal Justice System

- 413. The Committee observed that Paul Mackenzie was arraigned in court severally. Paul Mackenzie had been arrested before for various crimes including radicalisation and violating provisions of the Basic Education Act, 2013 by providing education in an unregistered school, locking up 43 children and denying them basic education, incitement to disobedience of the law and distributing films not examined by the Kenya Films Classification Board and filming without a licence. These offences have led to a number of criminal cases against Paul Mackenzie being Malindi Criminal Case 182 of 2017 - Republic vs Paul Nthenge, Malindi Criminal Case 790 of 2017 - Republic vs Paul Mackenzie, and Malindi Criminal Case 366 of 2019 - Republic vs Paul Mackenzie.
- 414. In Malindi Criminal Case 182 of 2017, Paul Mackenzie and his co-accused persons pled guilty to the offence of offering basic education in an unregistered institution contrary to the Basic Education Act, 2013 and entered into a plea bargain with the Director of Public Prosecution. The Court fined Paul Mackenzie Kshs. 20,000/= and ordered him to be of good behaviour.

415. In *Malindi Criminal Case 790 of 2017*, Paul Mackenzie was charged with four counts of the offence of radicalisation contrary to section 12D of the Prevention of Terrorism Act, 2012, offering basic education in an unregistered institution contrary to the Basic Education Act, 2013, practicing as a teacher not registered by the Teachers Service Commission and failing to provide basic education to children contrary to the Childrens Act and the Basic Education Act. In this matter, Paul Mackenzie and his co-accused, his late wife Joice Muikamba Wangunyu were acquitted under section 215 of the Criminal Procedure Code (Cap 75).
416. In *Malindi Criminal Case 366 of 2019* Paul Mackenzie was charged with three counts of incitement to disobedience of law contrary to section 96 (c) of the Penal Code (Cap. 62), being in possession and distribution of films which had not ben examined and classified by the Kenya Film Classification Board contrary to section 12 of the Films and Stage Plays Act (Cap. 222), operating a film studio and producing films without a valid filming license from the Kenya Film Classification Board contrary to section 4 of the Films and Stage Plays Act. In this matter, Paul Mackenzie pled not guilty. The prosecution objected to bail or bond. The court declined the application and granted Paul Mackenzie a cash bail of Kshs. 500,000/= or a bond of Kshs. 1,000,000/= with one surety. The matter is still pending in court.
417. Paul Mackenzie has other pending cases which are related to the findings in Shakahola. Of note is Malindi Criminal Misc. Case No. E024 of 2023. In this matter, Paul Mackenzie was accused of being connected to the murder of two children who had succumbed to starvation and suffocation and buried in a shallow grave in Shakahola Forest. The matter was heard and Paul Mackenzie was released on a cash bail of Kshs. 10,000/= and ordered to report to the police station as and when required. The Director of Public Prosecution filed a review before the High Court which was dismissed for lack of merit.
418. The Committee observed that in view of the number of prior charges brought against Paul Mackenzie as evidenced by the courts cases detailed above, it appears that the criminal justice system failed to deter the heinous activities of Paul Mackenzie in Shakahola, Kilifi County. The Committee observed that it took the relentless efforts of the families of victims, local human rights organisations and the media to bring the matter to the attention of the country for the actors in the criminal justice system to give this matter sufficient attention.

5.2.2. Failure in the Security System

419. The Committee observed that Paul Mackenzie has previously displayed anti-social behavior as evidenced by recurring complaints by religious leaders and the local community against his activities from as early as 2017 which led to his arrest. The complaints related to his opposition to formal education, radicalising adults to resign

from their jobs and join the church, teachings against seeking medical treatment, anti-government rhetoric opposing policies such as deworming programmes, participation in the population census and *Huduma Namba*, holding people hostage, and trespassing on private property.

420. The Committee observed that there were reports on the relocation of followers of Good News International Ministries from Malindi to Shakahola. The Committee further observed that various complaints concerning the activities in Shakahola Forest had been filed at Lango Baya Police Station. Similarly, evidence submitted to the Committee indicated that various complaints were made on the activities of Paul Mackenzie to the Kilifi County Security Committee. The county security committee summoned Paul Mackenzie and warned him against his radical teachings and subjecting followers to inhumane conditions.
421. The Committee observed that due to warning by the county security committee in 2022, Paul Mackenzie changed tact and minimized his radical teachings. He claimed to be a farmer, that he was no longer associated with the church, nor was he preaching. Evidence availed to the Committee indicate that Kilifi County Security Committee had prior knowledge of Paul Mackenzie's activities but failed to act on the information.
422. The Committee observed, during its fact finding visit in Kilifi County, that the entire security committee in Kilifi County was transferred to pave way for investigations into the Shakahola tragedy. The Committee however observed that these transfers which were done at a crucial time when the officers needed to give evidence to the Committee on its inquiry. The Committee also noted that the transfers may not have been done in good faith as the officers suspected on culpability ought to have been suspended and investigated as opposed to being transferred elsewhere.
423. The Committee established that there was inaction by county security apparatus. This was attributed to the fact that upon reporting the rescue of the 8-year old boy from Shakahola forest, and having identified two possible graves of his two siblings, police officers did not go to the forest until five days later on 22nd March, 2023. On the said day, police officers agreed to accompany Mr. Victor Kaudu, a staff of the Malindi Human Rights Centre and Mr. Francis Wanje, the grandfather to the boy, who had obtained exhumation orders for the graves of his grandchildren in Shakahola Forest. Upon reaching the forest the police officers allegedly received a phone call and retreated from the exercise leaving Mr. Kaudu and Mr. Wanje in the forest. It was not established who called the police officers and instructed them to retreat.
424. The Committee observed that the former members of the Kilifi County Security Committee had a duty to protect the lives and property of Kilifi County residents, a duty they failed to perform to the expected standard.

425. Noting the failures by the former members of the Kilifi County Security, the Committee extended invitations and issuing summonses to the said members but they failed to appear before the Committee. These members include—

	Name of Officer	Designation
1.	Joseph Kemboi	Senior Superintendent of Police (SSP)/ Sub-County Police Commander (SCPC), Malindi
2.	Charles Kamau Wanguhu	Assistant Superintendent of Police (ASP)/Senior County Criminal Investigation Officer (SCCIO) Malindi
3.	Solomon Odera	Superintendent of Police / Sub-County Police Commander (SCPC)
4.	Argamso Guracha	Superintendent of Police/ Critical Infrastructure Protection Unit (CIPU), Malindi
5.	Augusto Okuna	Officer Commanding Station (OCS), Malindi
6.	Hassan Hamara	Officer Commanding Station (OCS), Langobaya
7.	Calvin Malowa Otieno	Directorate of Criminal Investigation (DCI), Malindi
8.	Daniel Muthusi Muleli	County Criminal Investigation Officer (CCIO)
9.	Jecinta Wesonga	County Police Commander (CPC)
10.	Paul Maweu	Critical Infrastructure Protection Unit (CIPU)
11.	Joseph Yator	Police Officer attached to Directorate of Criminal Investigation

426. The Committee observed that there was a gap in the county security machinery due to failure by both the National and county governments to implement section 41 of the National Police Service Act, 2011 to set up County Policing Authorities that would ensure counties are involved in security matters.
427. The Committee further observed that despite a comprehensive policy on the framework proposed by the former National Steering Committee for *Nyumba Kumi*, there was a failure in community policing that would have assisted in gathering information from the local community and prevented the tragedy in Shakahola, Kilifi County.

5.2.3. Investigations and Prosecutions relating to the events in Shakahola

428. The Committee observed that Paul Mackenzie had recruited a group of armed militia (both men and women) who were to supervise and enforce the starvation and eventual death of the followers. They dug shallow graves where they buried those who succumbed to starvation. Those who defied the directive to fast or attempted to escape were either strangled or clobbered to death by the gang.
429. The Committee further observed that preliminary investigations indicated that the alleged crimes committed by Paul Mackenzie and his associates included acts of terrorism which threatened national security and caused serious risk to the health and

safety of the public, procuring, counselling and aiding persons to kill themselves, radicalization and murder in violation of various statutes such as the Penal Code (Cap. 63), the Prevention of Terrorism Act, 2012, the International Crimes Act, 2008 the Proceeds of Crime and Anti-Money Laundering Act, 2009, among others.

430. The Committee observed that there was disproportionate funding for the government agencies dealing with the various aspects of the Shakahola tragedy such as the Directorate of Criminal Investigations, the Correctional Services Department, the Children Services Department, the Kenya National Commission on Human Rights, the Office of the Director of Public Prosecutions, the Chief Government Pathologist, the Government Chemist and Rescue Centers. The National Police Service appeared well funded in conducting its operations compared to the other government agencies. There were reports that those who had been rescued and were being held in the rescue centers went without basic essential commodities like food, water, soap among others.
431. The Committee noted that several statements have so far been recorded from victims, witnesses, suspects and professional practitioners from various fields and expertise. A total of thirty (30) suspects under Shanzu Law Courts are in custody, twenty (20) among them are held in prison pursuant to a court order. Equally, several relatives of the victims of missing persons have recorded their statements and volunteered DNA samples for purposes of identification and matching.
432. The Committee observed that results of autopsy by the on 429 bodies reveal causes of death as starvation, asphyxia, head injury, post-delivery complications, dehydration, anaemia, brain swelling and heart diseases. All these causes are directly connected to radical teachings of fasting, starvation, application of violence on victims and radical teachings of avoiding healthcare.
433. The Committee notes that despite extending three invitations and issuing a summons, the Chief Government Pathologist, Dr. Johansen Oduor failed to appear before the Committee to provide information on the significant role he played in identifying the cause of death of bodies exhumed from Shakahola Forest and the progress of DNA matching. Consequently, the Committee resolved to issue a fine of Kshs. 500,000/= to be paid by Dr. Oduor personally and ordered the Inspector General of National Police Service to arrest Dr. Oduor and present him before the Committee on 17th October, 2023. That notwithstanding, Dr. Oduor was never presented to the Committee.
434. Despite having not met the Chief Government Pathologist, the Committee observed that there was a need to conduct urgent DNA analysis and matching and search for unidentified graves on the vast forest land to account for the missing people.
435. Having observed that, the Committee further noted that the rescue and autopsy process had faced serious challenges including radicalization and trauma visited on the rescued

adults and children which has led to non-cooperation, DNA sequencing is a slow and very expensive process which has limited the pace of the investigations taking into account the fact that the laboratories require additional supply of molecular grade reagents and consumables which are not locally available, there is a lack of adequate equipment to enable the technical staff to expeditiously handle the DNA analysis and the operation itself is cost intensive.

436. The Committee observed that the National Forensics Laboratory at the Directorate of Criminal Investigations Headquarters is faced with numerous challenges among them lack of reagents and inadequate funding and lack of specialised vehicles to carry samples. Additionally, of the twelve (12) laboratories, only eight (8) are functional. The Department of Chemistry and Biology at the Directorate of Criminal Investigations are not functional because the machines are outdated and some service contracts have expired. It is therefore not possible to conduct identification of bodies and DNA matching in the ongoing investigations into Shakahola tragedy.
437. The Committee observed that the National Forensics Laboratory at the Directorate of Criminal Investigations Headquarters requires additional funding of Kshs.340 million to upgrade the Biology Forensic Laboratory and another 117 million to upgrade Chemistry Forensic Lab. The Committee further noted that there was need to pursue a sustainable funding mechanism and financial autonomy for the National Forensic Laboratory, for instance through revenue-raising initiatives such as capacity building for the region.
438. The Committee also observed that currently, the Directorate of Criminal Investigations, particularly, the Forensic Finger Print Identification Bureau which issues police clearance certificates generates Kshs.1.2 billion and receives 10,000 applications for clearance per day. However, the office has the capacity to process 4,500 applications per day. In order to upgrade the facilities, the Directorate would require additional funding of 2.7 billion. This will enable the facility to process 20,000 applications per day. The Committee was informed that South Africa has made significant investment in their facilities and as a result making it one of the best in Africa.
439. The Committee observed that the National Coroners Service Act, 2017 has not been operationalised by the Attorney General. The Act establishes an independent National Coroners Service and the Office of the Coroner-General to provide for investigation of reportable deaths. This is to determine the identities of the deceased persons, the times and dates of their deaths and the manner and cause of their deaths as well as to complement the role of forensic medical science services. This assists the police in handling investigations involving bodies and scene management, exhumation of bodies, establishing the procedures for investigations among others. The Office would also put in place measures to prevent deaths from similar causes and facilitate the

participation of the coroner at inquests to advise on matters connected with reportable deaths, including matters related to public health or safety and the administration of justice.

440. The Committee also noted that Directorate of Criminal Investigation officers on the ground in Shakahola Forest had not been paid their allowances for over three months. The Directorate of Criminal Investigations has been relying on donor support from the Kenya Red Cross.
441. The Committee observed that there was lack of awareness for those who had lost their family members in the incident in Shakahola on the procedure of reporting or registration of missing persons and the remaining process in the DNA matching and releasing of bodies for burial. This is especially so for the families who resided outside of Kilifi County that is, among others Kakamega, Vihiga and Kisumu Counties who feel detached from the on goings in Shakahola due to the distance. This has resulted to unmanaged expectations and anxiety among the victims’ families.

RECOMMENDATIONS

442. **The Committee recommends that-**

- (1) The National Police Service Commission should severely sanction all security officers whose acts of commission or omission aided or abetted the Shakahola tragedy within thirty (30) days of adoption of this report by the Senate. These shall include the former members of the Kilifi County Security Committee namely-**

	Name of Officer	Designation
1.	Joseph Kemboi	Senior Superintendent of Police (SSP)/ Sub-County Police Commander (SCPC), Malindi
2.	Charles Kamau Wanguhu	Assistant Superintendent of Police (ASP)/Senior County Criminal Investigation Officer (SCCIO) Malindi
3.	Solomon Odera	Superintendent of Police / Sub-County Police Commander (SCPC)
4.	Argamso Guracha	Superintendent of Police/ Critical Infrastructure Protection Unit (CIPU), Malindi
5.	Augusto Okuna	Officer Commanding Station (OCS), Malindi
6.	Hassan Hamara	Officer Commanding Station (OCS), Langobaya
7.	Calvin Malowa Otieno	Directorate of Criminal Investigation (DCI), Malindi

8.	Daniel Muthusi Muleli	County Criminal Investigation Officer (CCIO)
9.	Jecinta Wesonga	County Police Commander (CPC)
10.	Paul Maweu	Critical Infrastructure Protection Unit (CIPU)
11.	Joseph Yator	Police Officer attached to Directorate of Criminal Investigation

- (2) **The Director of Criminal Investigations investigates the security officers and national administration officers, including the former members of the Kilifi County Security Committee, whose acts of commission or omission aided or abetted the events leading to the Shakahola tragedy with a view to recommending prosecution by the Director of Public Prosecutions within thirty (30) days of adoption of this report by the Senate.**
- (3) **The Committee recommends that the Cabinet Secretary for Interior and National Administration should severely sanction National Administration Officers whose acts of commission or omission abetted or aided the Shakahola tragedy within thirty (30) days of adoption of this report by the Senate.**
- (4) **The Cabinet Secretary for Interior and National Administration ensures that the National Forensic Laboratory is fully operationalized, properly equipped with both qualified well trained staff, machinery, other equipment and also ensures that the National Forensic Laboratory is adequately funded to able to conduct DNA matching within thirty (30) days of adoption of this report by the Senate.**
- (5) **The Attorney General to operationalise the National Coroners Service Act, 2017 to establish an independent National Coroners Service and the Office of the Coroner-General within sixty(60) days of the adoption of this report in the Senate.**
- (6) **The Committee recommends that the Cabinet Secretary for Interior and National Administration establish a multi –agency and multi-stakeholder de-radicalization and rehabilitation committee to facilitate the reintegration of the survivors to their homes, families and communities within sixty (60) days of adoption of this report by the Senate.**
- (7) **The Committee recommends that the National Intelligence Service sets up an observatory to monitor extremist ideology with a view to identify those with harmful activities within sixty (60) days of adoption of this report by the Senate.**

- (8) The Witness Protection Agency should support and protect witnesses identified by the Director of Criminal Investigations and the Director of Public Prosecutions.**
- (9) The Commission on Administrative Justice to investigate maladministration, discourtesy, incompetence, inefficiency or ineptitude within the National Government Administrators that may have contributed to the occurrence of the Shakahola tragedy.**
- (10) The Director of Public Prosecution to clearly identify and distinguish the perpetrators and victims as to clearly determine who bears criminal culpability and who needs support, care and protection.**
- (11) The National Treasury to facilitate the allocation of adequate funds to all the agencies dealing with the various aspects of the Shakahola tragedy such as the Directorate of Criminal Investigations, the Correctional Services Department, the Children Services Department, the Directorate of Medical Services, the Kenya National Commission on Human Rights, the Office of the Director of Public Prosecutions, the Government Chemist and Rescue Centers.**
- (12) The Chairperson of the Council of Governors to cause the gazettelement of guidelines for appointment and removal of members of the County Policing Authority in accordance with section 41 (8) of the National Police Service Act, 2011 within sixty (60) days of the adoption of this report by the Senate.**
- (13) Each County Governor to ensure the appointment of members of the respective County Policing Authority in accordance with section 41 of the National Police Service Act, 2011.**
- (14) County Governments should invest in rescue centres for adults and children.**
- (15) The Cabinet Secretary for Interior and National Administration and County Governors should establish, maintain and manage proactive systems, policies and legislation on disaster mitigation, preparedness, response and recovery.**
- (16) The Director of Criminal Investigations develops and disseminates public awareness information materials or announcements for families to understand the procedure and how to follow up after the registration of**

missing persons and the remaining process in the DNA matching and releasing of bodies for burial.

- (17) The Director of Criminal Investigations develops and disseminates public awareness information materials to encourage survivors and witnesses who have not recorded their individual statements to come forth and document the same to facilitate accountability and justice without fear of criminalization.**

5.3.MANDATE 3: ESTABLISH THROUGH THE OFFICE OF THE REGISTRAR OF SOCIETIES, THE NUMBER AND ACTIVITIES OF RELIGIOUS GROUPS IN THE COUNTRY INCLUDING THEIR REGISTRATION AND COMPLIANCE STATUS

5.3.1. Number and Activities of Religious Groups in the Country

443. The Committee observed that the Societies Registry held records of approximately 100,000 registered societies that are maintained in manual form. Approximately 40,000 of the registered societies are of a religious nature including churches, mosques and temples.
444. The Committee observed that there had been previous attempts to regulate the registration of religious organization. In 2015, the then Attorney General developed the draft Societies (Religious Societies) Rules to address the inadequacy of the current legal framework on registration and oversight of religious organisations. This statutory instrument was intended to bring order into the religious sphere which had been accused of commercialization of religion and radicalization. The draft rules however met vehement opposition and the then Attorney General finally abandoned them.
445. The Committee further observed that following the abandonment of the draft Societies (Religious Societies) Rules in November 2015, then Attorney General announced a moratorium on registration of religious societies after media reports on alleged illegal activities by certain religious societies which included extortion of their followers and the public at large. There was also an increase in the radicalization of the youth in places of worship raising a security concern for the country.
446. The Committee observed that the moratorium was lifted on 13th June, 2022 by the then Attorney General upon preparing Administrative Guidelines and Standard Operating Procedures to be complied with by anyone seeking to register a religious society in consultation with religious leaders.

447. The Committee noted that since the moratorium was lifted in June, 2022, the Registrar of Societies had received a total of nine hundred and seventy-eight (978) applications for registration of faith-based organizations through the *e-citizen* platform and the same were at various stages of registration. The Committee also noted that out of the nine hundred and seventy-eight (978) applicants, the Registrar of Societies had only issued certificates of registration to eleven (11) applicants who were compliant with the guidelines.

RECOMMENDATIONS

448. **The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others.**

5.4. MANDATE 4: AUDIT THE LEGAL AND REGISTRATION FRAMEWORK FOR RELIGIOUS ORGANIZATIONS IN THE COUNTRY

5.4.1. Current Legal Framework for Registration, Regulation and Compliance

(1) The Constitution of Kenya, 2010

449. The Committee observed that even though a significant majority of Kenyans identify with at least one religious belief, Article 8 of the Constitution of Kenya is categorical that there shall be no state religion. As the supreme law of the Republic, the Constitution binds all persons and State organs at both levels of government. Any law, including customary law, which is inconsistent with the Constitution, is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid.
450. The Committee noted that Kenya is a secular state as opposed to a theocracy. The Constitution of Kenya guarantees religious freedom. Article 32 provides that every person has the right to freedom of conscience, religion, thought, belief and opinion. Additionally, every person has the right, either individually or in community with others, in public or in private, to manifest any religion, or belief through worship, practice, teaching or observance of a day of worship. The Constitution further provides that a person may not be denied access to any institution, employment or facility or the enjoyment of any right because of the person's belief or religion and lastly, a person shall not be compelled to act or engage in any act that is contrary to the person's belief or religion.
451. The Committee observed that Article 36 provides for freedom of association where every person has the right to join, form or participate in the activities of an association of any kind. Additionally, if a legislation provides for registration of an association,

such registration may not be withheld or withdrawn unreasonably in which event the person shall be given a fair hearing before the registration is withheld or cancelled.

452. Having noted that, the Committee observed that the freedoms of religion and association are not absolute. Article 24 of the Constitution provides that a right or fundamental freedom can be limited by law to an extent that the limitation is justifiable and reasonable in an open and democratic society based on human dignity, equality and freedom considering all relevant factors including the nature of the right or fundamental freedom, the importance of the purpose of the limitation, the nature and extent of the limitation, the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others and the relationship between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.
453. The freedom of religion has been limited in some statutes such as Prevention of Terrorism Act, 2012 which provides in section 35 that subject to the provisions of Article 24 of the Constitution, the freedom of expression, media, conscience, religion, belief and opinion shall be limited to the extent of preventing the commission of a terrorism offence.

(2) The Societies Act, Chapter 108, Laws of Kenya

454. The Committee observed that religious institutions in Kenya are classified as societies and therefore regulated under the Societies Act (Cap. 108). Section 9 of the Societies Act states that within twenty-eight days of its formation, a society shall either register or apply for exemption from registration. The application for registration shall be made to the Registrar of Societies accompanied by the prescribed Form A which is the application form, Form B containing the registered office of the society, the society's constitution and the Registrar shall register the society by entering its name in the Register of Societies.
455. The Committee observed that the circumstances in which the Registrar of Societies is obligated to decline an application for registration are stated in section 11 (2) of the Act including where the Registrar has reasonable cause to believe that the society has any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Kenya, or that the interests of peace, welfare or good order in Kenya would otherwise be likely to suffer prejudice by reason of the registration of the society, where the society has been declared to be dangerous to the Republic and where the society's constitution is repugnant or inconsistent with the law.
456. The Committee observed that under section 12 of the Societies Act, a society may be cancelled or suspended where the Registrar has reasonable cause to believe among other things that the society is likely to pursue, or to be used for, any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Kenya, the

interests of peace, welfare, or good order in Kenya will likely be prejudiced by the continued registration of the society and where the society has willfully, and after notice from the Registrar, contravened any of the provisions of its constitution or of its rules, or has contravened the Act.

457. The Committee observed that under Part IV of the Societies Act, societies should have an office and a postal address, notify the Registrar of any change in officers, have a constitution which shall provide for matters including the name of the society, the objects of the same, the persons to whom membership is open, the rates of joining and subscription fees, the method of expulsion of members, the titles of officers, trustees, auditors, their terms of office method of election, appointment, dismissal, suspension, frequency and quorum of meetings, custody and investment of funds and property of the society, the designation of the persons responsible for the same, purposes for which funds may be used, annual audit of accounts, and manner of dissolution of the society.
458. Further, the Committee observed that a registered society shall obtain consent of the Registrar before amending its name or constitution. Section 23 of the Societies Act restricts appointment of persons convicted of a crime involving fraud or dishonesty to the office of the treasurer, deputy treasurer or any other office responsible for collection, disbursement, custody or control of the funds of the society, section 24 of the Act prohibits any person from purporting to act as an officer of the society without being duly appointed or elected while section 25 requires every society to keep a register of members and their date of admission into membership.
459. The Committee observed that the Societies Act requires every society to keep books of accounts containing the details of all money received and payments made by the society. The treasurer shall be responsible for the accounts which shall be open for inspection by any member of the society or by the Registrar. Additionally, every society shall at least once annually hold a general meeting inviting all members and shall at such a meeting render an account of all the money received and paid.
460. With regard to filing of returns, the Committee noted that section 30 of the Societies Act requires every society to submit to Registrar annual returns. It is an offence to make falsified returns punishable by a fine not exceeding Kshs. 10,000/= or an imprisonment for a term not exceeding one year.
461. The Committee observed that any society which is not registered or exempted from registration under the Societies Act shall be deemed to be an unlawful society. Section 5 of the Societies Act makes it an offence to manage an unlawful society which is punishable by a fine not exceeding Kshs. 10,000/= or an imprisonment for a term not exceeding one year or to both.

(3) The Trustees (Perpetual Succession) Act, (Cap. 164)

462. The Committee observed that the registration of religious institutions under the Societies Act does not confer a legal personality on the institution. This means that the religious institution even though registered cannot hold property in its name and does not have a legal personality separate from its members. As such, it is common practice for religious institutions to incorporate a trust under the Trustees Perpetual Succession Act to hold the property.
463. The Committee noted that the registration of a religious institution as a trust grants the institution benefits including creation of a separate legal identity from the founders, members, leaders of the religious institution thereby allowing the trust to enter into contracts with other third parties, ability to hold property on behalf of the religious institution thereby protecting the property from loss, ability to sue and be sued in its own name and eligibility to apply for and obtain a tax exemption from the Kenya Revenue Authority, an exemption from payment of land rates on immovable property and an exemption from payment of stamp duty when buying land and property.
464. The Committee noted that under the Trustees Perpetual Succession Act, charitable trust is one formed for the exclusive purpose of the relief of poverty, the advancement of education, religion or human rights and fundamental freedoms, or the protection of the environment or any other purpose beneficial to the general public. Prior to registration of a charitable trust, the trustees are required to prepare a trust deed containing the name, objects and constitution of the trust, the powers of the trustee, powers to appoint or change trustees, resignation of trustees, meeting of trustees, a statement as to whether the trust concerned is a registered society or an exempted society, the common seal and the regulations governing the use and custody of the common seal.
465. The Committee also observed that the trust deed shall be executed by the trustees and thereafter assessed for stamp duty and registered at the Lands Registry under the Registration of Documents Act (Cap. 285).
466. Once a trust is registered under the Trustees (Perpetual Succession) Act, a certificate of incorporation is issued enabling the trust enjoy the benefits discussed above.

(4) Other Registration Frameworks

467. The Committee noted that even though it did not receive information of any religious organisations which have been registered outside the Societies Act, there was nothing to prevent the registration of religious organisations in other frameworks such as a company limited by guarantee under the provisions of the Companies Act, 2015 or a limited liability partnership under the Limited Liability Partnership Act, 2012.

(5) The Income Tax Act (Cap. 470)

468. The Committee noted that the taxation of religious organisations is a matter that raises diverging opinions. On the one hand, it has been argued that the freedom of conscience,

religion and belief necessitate non-interference from the state on certain forms including taxation. It has also been stated that religious organisations perform charitable roles i.e. support of hospitals, schools and other social functions from the income generated. Thus, the exemption from paying taxes is for the common good.

469. On the other hand, the Committee observed that the proliferation of religious organisations especially in the Christian faith has led to commodification of religion and turning churches into profit making entities. It was therefore submitted during stakeholder consultations that to promote transparency and accountability in religious activities, it is imperative that churches begin paying taxes as the continued exemption disproportionately favours churches as compared to other income generating entities.
470. This debate notwithstanding, the Committee noted that religious organisations in Kenya are eligible for tax exemptions. Paragraph 10 of the First Schedule of the Income Tax Act (Cap. 470) provides that—

*“...the income of an institution, body of persons or irrevocable trust, of a public character established solely for the purposes of the relief of the poverty or distress of the public, or for the advancement of religion or education—
established in Kenya; or whose regional headquarters is situated in Kenya,*

in so far as the Commissioner is satisfied that the income is to be expended either in Kenya or in circumstances in which the expenditure of that income is for the purposes which result in the benefit of the residents of Kenya. Provided that any such income which consists of gains or profits from a business shall not be exempt from tax unless such gains or profits are applied solely to such purposes and either—

such business is carried on in the course of the actual execution of such purposes;

the work in connection with such business is mainly carried on by beneficiaries under such purposes; or

such gains or profits consist of rents (including premiums or any similar consideration in the nature of rent) received from the leasing or letting of land and any chattels leased or let therewith; and provided further that an exemption under this paragraph... ”

471. The Committee noted that the exemption under the Income Tax Act issued within sixty days after application, is valid for a period of five years and may be revoked by the Commissioner for any just cause.

472. The Committee noted that in the case of *Commissioner of Domestic Taxes vs Thika Road Baptist Church Ministries*⁵⁶, the Court interpreted the question of whether the income derived from religious activities i.e. tithes, offerings, donations are subject to income tax. The court held that the list of sources of income set in section 3(2) of the Income Tax Act (gains or profits from businesses, employment, right granted to any person for the use or occupation of property, dividends or interest, pension, withdrawals out of a registered pension fund or retirement fund, withdrawals from a registered home ownership savings plan, capital gains, natural resource income) was exclusive and closed. As such, tithes, donations and offerings do not fall within the definition of chargeable income. Turning to the issue of tax exemptions, the court held that—

“It is only the income that is chargeable that is exempt from tax under section 13 as read with first schedule of the ITA. I therefore find and hold that since tithes, offering and freewill donations are not income chargeable with income tax, it was not necessary for the Church to seek an exemption.”

473. The Committee noted that by virtue of the above judgment, is that it is only income that is subject to tax in the first instance that may be exempted from tax by virtue of the First Schedule of the Income Tax Act. As a result, there is no requirement on the part of religious organisation to seek tax exemptions on the tithes, offerings and donations received.

474. The above notwithstanding, the Committee noted that some religious organisations run business ventures such as schools, hotels, rental properties. The income derived under these economic activities is not automatically exempted from taxation. However, under the First Schedule of the Income Tax Act, the religious organisation is required to seek an exemption if those gains or profits are ploughed back for the main objective which is advancement of religion. Religious organisations are however required to file returns with the pay other taxes such as value added tax (VAT), pay as you earn (PAYE), withholding tax et cetera.

(6) Draft Societies (Religious Societies) Rules, 2015

475. The Committee observed that there had been previous attempts to regulations religious organisations. The most significant was the draft Rules developed by the Attorney General in 2015. The Committee observed that the draft Rules were met with sustained opposition from the Christian leaders. The increased opposition to the draft Rules led the State into abandoning their publication and instead impose a moratorium on registration of new religious organisation.

476. The moratorium was effected in November 2014 and lasted until June 2022. Though the ban was largely seen by religious leaders as an infringement on the freedom of

⁵⁶ (Tax Appeal E024 of 2021) [2022] <http://kenyalaw.org/caselaw/cases/view/233741/> accessed on 3rd July, 2023.

religion, the then Attorney General Prof. Githu Muigai explained that the ban was necessitated by several reports indicating that the officials of several religious organisations and societies were guilty of orchestrating certain unconscionable activities that left the congregants at a disadvantage⁵⁷.

477. The Committee notes that the ban was intended to address the proliferation of religious organisations which is what the draft Religious Societies Rules were intended to do. However, the Committee noted that the moratorium only affected the registration aspect leaving the other issues such as monitoring and filing of returns unchecked.
478. The Committee noted that the draft Religious Societies Rules, the ban on registration of churches and the administrative guidelines were geared towards making up for in the shortcomings in the current law on registration and monitoring of religious societies.

5.4.2. Gaps in the current Legal Framework

479. The Committee observed that the current legal framework is inadequate for the following reasons—
- (a) The registration regime is fragmented across various Acts i.e. the Societies Act, the Trustees (Perpetual Succession) Act, the Companies and the Limited Liability Partnerships Act. This has presented a challenge because there is lack of a clear approval and enforcement agency to ensure religious organisations operate within the law. The Committee therefore noted that there was a need to enact a single, all-inclusive legislation, a strong enforcement agency vested with sufficient resources to monitor registration of religious organisations, their activities and their returns. The Registrar of Societies office is not adequately capacitated. The records are largely manual making it difficult to exercise oversight to ensure filing of returns.
 - (b) The current legislation allows all and sundry to register a religious organisation but fails to ensure the person applying for registration is qualified. This has led to the emergence of religious leaders who teach values that do not conform to human rights which are protected in the Constitution of Kenya.
 - (c) The law does not address opening of branches of a church resulting in a legally ambiguous status on branches. For example the law does not state whether branches are required to file returns or whether the money collected from the branches is commingled with funds collected from the main church and who is liable for criminal activities committed in the branches.

⁵⁷ AG defends ban on church registration <https://nation.africa/kenya/news/ag-defends-ban-on-church-registration-372308> [accessed on 4th July, 2023]

- (d) The current framework fails to create transparency and accountability in religious leaders. Religious organisations exercise power over their congregants. It is important to provide accountability and transparency mechanisms with regard to the actions of the religious leaders, the type of doctrines being propounded, the membership of the organisation and the how the funds collected from the congregants are utilized.
- (e) The current framework does not provide for self-regulation, which was attempted by the draft Religious Societies Rules in 2015. The current umbrella bodies in Christianity i.e. the Kenya Conference of Catholic Bishops, the National Council of Churches of Kenya, the Evangelical Alliance of Kenya among others have voluntary membership leaving out a huge number of churches. The current umbrella bodies are insufficient in monitoring the teachings propounded in some churches. It is therefore very easy to indoctrinate, radicalize and financially exploit vulnerable people if there is nobody monitoring a single church.
- (f) There is currently no requirement to formalize church business. Many times religious leaders especially in Christianity do not separate church business and personal business. Tithes, offerings and donations are sometimes paid into the religious leaders' personal accounts instead of the church account. This presents a challenge in determining the source of funds and whether those funds should be exempt from tax. This matter also creates a conflict of interest and generates disputes within the church because the tithes, offerings and donations are most often treated as personal money to the dismay of other church officials.
- (g) Additionally, on the issue of finances, the law ought to require religious organisations to retain services of tax experts to maintain a clean tax ledger and audit books of accounts.
- (h) The penalties provided under the Societies Act (i.e. a fine of Kshs. 10,000/=) are too lenient to deter future transgressions of the law.
- (i) The present law does not provide for strict liability in criminal or civil activities on religious organizations' property such as violation of fundamental rights such as confining vulnerable persons like the sick, children, denial of necessary medical treatment in favour of prayers, sexual exploitation et cetera.
- (j) There is no provision of dispute resolution in the current framework. All of the dispute from religious organisations end up in the court system. There should be an intermediate dispute resolution mechanism before appeals are preferred to the

courts.

RECOMMENDATIONS

480. **The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others.**
481. **The Committee further recommends that—**
- (1) the registration of religious societies be removed from the ambit of the Societies Act and a new law be enacted to form the Office of the Registrar of Religious Organisations domiciled within the Office of the Attorney General;**
 - (2) that a new law be enacted to define crimes to prohibit harm/ danger/ actions related to the manifestation of religion that infringe on the rights of others, violates any written law, causes harm, are a threat to national security. Additionally, the law should prohibit various harmful practices including but not limited to—**
 - (a) financial exploitation including exorbitant financial demands;**
 - (b) recruitment of children;**
 - (c) public order disturbances;**
 - (d) physical, sexual, psychological abuse;**
 - (e) denial of access to education;**
 - (f) denial of access to medical treatment;**
 - (g) false imprisonment;**
 - (h) threats and abuse of those who desert or question the religious organisation;**
 - (i) radicalization and indoctrination of followers; and**
 - (j) curtailing any person’s personal liberties including freedom of conscience, opinion, political affiliation and freedom of assembly among other human rights.**
 - (3) Religious Organisations sharing the same faith will be required to register a consortium/umbrella body of not less than twenty-five (25) members with—**
 - (a) board**
 - (b) constitution**
 - (c) statement of faith**
 - (d) KRA pin**
 - (e) source of funds**

- (4) All religious organisations will be required to be a member of a consortium/ religious umbrella body to be approved for registration by the proposed Registrar of Religious Organisations within two (2) of year of commencement of the proposed Religious Organisation Bill, 2023.
- (5) All religious organisations should institute a Board of management that deals with the financial management, human resources, assets and liabilities, businesses, filing of KRA returns of the religious organisation separate from the purely religious activities that deal with spiritual matters.
- (6) Following formation and registration of an umbrella body of a particular faith, the umbrella body is required to develop and submit to the Registrar of Religious Organisations a theological training curricula for religious leaders, guidelines on the exercise and activities of the religious organisations.
- (7) Degree for religious leaders within in six (6) years of the commencement of the propose Religious Organisations Bill, 2023.

5.5.MANDATE 5: DEVELOP A LEGISLATIVE PROPOSAL ON REGULATION OF RELIGIOUS ACTIVITIES IN THE COUNTRY

482. The Committee received varying submissions on whether religious organisation should be self-regulated or regulated by state agencies.

5.5.1. Self-Regulation and State-Regulation of Religious Organisations

483. The Committee observed that there were varying submissions on whether religious organisation should be self-regulated or regulated by state agencies. With respect to self-regulation, a majority of religious organisations that appeared before the committee proposed self-regulation while some emphatically opposed regulation of religions by the State. The religious organisations engaged by the Committee included the Kenya Conference of Catholic Bishops, the Evangelical Alliance of Kenya, the National Council of Churches of Kenya, the Supreme Council of Kenya Muslims, Jesus is Alive Ministries, Ministry of Repentance and Holiness, Hindu Council of Kenya, Supreme Council of Kenya Muslims (SUPKEM) and local religious leaders in Kilifi, Kisumu and Vihiga Counties. This view was also shared by Amnesty International who stated that there should be no limitation of freedom of conscience, belief, religion and opinion and called on the Committee to propose self-regulation mechanisms and the role of the Registrar of Societies be limited to oversight.

484. The Committee observed that various reasons were submitted on why self-regulation was desired by most religious organisations which centred on the risk of discrimination, the curtailment of fundamental rights and the freedom of religion and association guaranteed under the Constitution, the risk that the regulator on one religion may dictate the activities of another religious, the varied existing administration and organisation models for various religious groups among other reasons. On this matter, the

Committee took note of the submission of the Kenya Conference of Catholic Bishops made reference to that the restriction of rights and freedoms occasioned by regulation of churches in countries such as the Democratic Republic of Congo, China, Eritrea, Russia, Vietnam, Singapore, Tajikistan, Turkmenistan and Tunisia where the State had invested in regulation of religion with undesired results. Additionally, the Committee observed that some religions such as the Catholic Church had an international organisation governed by a common law and discipline.

485. The Committee observed while most religious organisations favoured self-regulation, there were proposals for to put in place a framework for self-regulations, for example, putting in religious umbrella bodies for purposes of self-regulating mechanisms by religious organizations. The Committee noted proposals that the umbrella bodies would facilitate peer monitoring of the practitioners of the different religious persuasions. Additionally, some stakeholders, for example, the Hindu Council of Kenya proposed the implementation and strengthening of the existing laws including the Constitution and other laws holding the view that adding another layer of legislation would not serve a deterrent purpose. The Committee observed that there were already well-organized umbrella bodies such as the Kenya Conference of Catholic Bishops, National Council of Churches, Supreme Council of Kenya Muslims, Evangelical Alliance of Kenya and the Hindu Council of Kenya provided mechanisms to confront challenges arising as a result of religion.
486. The Committee observed that with respect to regulation of religious organisations, various stakeholders called for policy and legal reforms that would provide for the registrations and regulations of religious organisations by the State as opposed to as opposed to self-regulations. There were also a range of proposals for a legal framework on the various aspects regarding religious organisations including: qualifications for leaders of religious organisations, stricter regulation of churches with qualifications and even taxation of substantive earnings, requirements for registration, regulation of operations of the religious organisations, development of theological training curriculum among others. The Committee noted that the current legal and regulatory framework was inadequate to supervise and oversee the general conduct and management of religious activities. These included local and religious leaders from Kilifi County, Universities, training institutions, academics, the Attorney General, Registrar of Societies, the Office of the Director of Public Prosecution, Law Society of Kenya, Kenya National Commission on Human Rights, local religious leaders from Kilifi County.
487. The Committee observed that even though that mainstream or established churches have established and long tested mechanisms for self-regulation. However, a majority of newer Pentecostal and charismatic churches that have proliferated in Kenya and

Africa in general lacked tools and mechanism for self-regulation. The Committee further observed that there was a distinction made in international human rights documents between internal beliefs and the external realm or manifestation of those beliefs. Whilst the right to hold a particular belief is generally considered to be absolute, outward manifestations of religion may be subject to legitimate restrictions. Further, that there should be a legally acceptable framework in line with international law and the Kenyan Constitution to ensure that the government upholds its obligation to protect its citizens. In this respect, the Committee observed that there was need to examine extreme religious activities from the lenses of national security in view of the deaths in in Shakahola as well as to ensure justice for the victims and their families and protection of citizens from abuse and financial exploitation of vulnerable people by rogue religious leaders.

488. The Committee observed that in line with proposals for State regulation, there should be independent bodies, such as religious watchdog groups or ombudsman offices which could help ensure accountability and prevent extreme indoctrination. These bodies can investigate complaints, monitor religious organizations' activities, and provide a platform for individuals to voice concerns. Additionally, inter-agency collaboration between government agencies should be strengthened to enhance efficiency in detection, prevention, investigation, prosecution and adjudication of complex crimes.
489. The Committee further observed that requiring religious organizations to be transparent about their activities, teachings, and funding sources can help identify any potential signs of extreme indoctrination. In this respect, regulation would put in place a framework for reporting and sharing information regarding suspicious activities, enabling concerned individuals to come forward.
490. The Committee observed that in support of regulations of religious organisations, there were proposals for a Parliament to enact a specific legislation aimed at regulating extreme religious activities in accordance with Article 24 of the Constitution which prescribes the permissible manner to limit the non-absolute freedom of conscience, religion, belief and opinion.

5.5.2. Registration of Religious Organisations

491. The Committee observed that various stakeholders pointed out inadequacies in the current regime of registration of societies under the Societies Act. The Societies Act, enacted in 1968 is the overarching piece of legislation dealing with the registration of all types of societies. The regime of registration of religious organizations was governed by an old law which governed the registration of such registration of members' clubs, burial committees among others. As such, due to the ease with which individuals could register a religious organization, there was an upsurge in the number of religious organization seeking registration.

492. The Committee further observed that the Registrar of Societies on her part informed the Committee that the Office of the Attorney General had identified the gaps of the Societies Act and had developed a draft Associations Bill, 2018 which among other things sought to repeal the Societies Act and enhance regulation of all societies registered in Kenya. However, the Committee observed that a copy of the draft Bill had not been submitted to Parliament.

5.5.3. Strengthening and Decentralisation of the Office of the Registrar of Societies

493. The Committee observed that there were several proposals with respect to current institutional network with encompasses the Attorney General and the Registrar of Societies. The Committee observed that several stakeholders highlighted the critical role played by the Office of the Registrar of Societies in registration of religious organizations and ensuring compliance with regulations and guidelines for operations of religious organizations. On the matter of monitoring for compliance purposes, the Committee observed that the Offices of the Registrar of Societies and that of the Attorney General were not decentralized making it difficult to offer proximate services to the public at the lowest point of service delivery. These offices have presence in only fourteen (14) regions hence making it difficult to monitor compliance of faith-based institutions once registered. The Committee observed that there was need for proposals to strengthen and decentralize the services of the office of the Registrar of Societies. This was emphasised by the Cabinet Secretary for Interior and National Administration, the Kenya Conference of Catholic Bishops, National Council of Churches of Kenya and the Evangelical Alliance of Kenya.
494. The Committee observed that there were also proposals that called for a regulatory body to oversee the registration and conduct of religious institution. Additionally, the Committee noted that there is need to strengthen the coordination of the two levels of government on security matters and fast track the implementation of section 41 of the National Police Service Act of 2011.

5.5.4. Establishment of Cult Observatory

495. The Committee observed that there was need to establish a cult observatory on New Religious Movements. The Committee further noted that there was surveillance on Islamic related terrorism, therefore, the same can be done for Christian and other faiths that pose security risks to the public. The Committee noted that an observatory would be play an important role as a think tank and policy observatory with the role to study cults and monitor religious authoritarianism. This is in recognition that religion can be a force for good or evil with implications for National security. Further, the Committee noted that there is need to focus attention on regulation of religious authoritarianism in

collaboration with academics, national intelligence agencies and policy think tanks. Additionally, the Committee observed that security laws and policies on religious extremism have been applied selectively against Muslims. This has allowed religious extremism within the Christian Community to go unchecked.

5.5.5. Regulation on Operations of Religious Organisations

496. The Committee observed that there were several submissions that called for streamlining of the operations of religious organisations. The Committee noted that there was a need to have systems of governance and financial accountability in place, for example having management boards. Further, the Committee observed that financial probity and taxation of religious organisations to ensure filing of financial returns and deterring financial exploitation of followers a critical aspect that required regulation.

5.5.6. Theological Education and Training for Religious Leaders

497. The Committee observed that there were various proposals that called for theological education and training of religious leaders as a requirement prior to registration of religious organisations especially if they are founders of a religious organisation. Some of the key aspects that should be regulated include the minimum level of formal or non-formal education for religious leaders, establishing minimum competencies and standard curricula for theological training, accreditation of training institutions among others.

5.5.7. Summary of Best Practices based on Comparative Analysis

498. The Committee considered comparative analysis on extreme religious incidences that have occurred globally and compared certain aspects with other jurisdictions including the legal and policy framework. The Committee observed some best practices in other jurisdictions are as follows—

	Country	Best Practices
1.	Rwanda, France and Japan	<ul style="list-style-type: none"> • Have a distinct role for local authorities/governments in the registration and regulation of religious organizations. • For instance, in Rwanda there is a requirement for a letter issued by the district authorities/ local authorities certifying that the church construction meets area standards.
2.	Rwanda	<p>Some of the requirements for registration include:</p> <ul style="list-style-type: none"> • A brief notarized document explaining the doctrine of the organization also known as a Statement of faith. • On umbrella society affiliation, there is a requirement of partnership issued by one of the umbrellas of own choice • On theological qualifications, there is a requirement that the Legal Representative should possess a bachelor’s degree in religious studies or any bachelor’s degree with a valid certificate in religious studies issued by a recognized institution

		<ul style="list-style-type: none"> • Notarized minutes of the General Assembly that established the organization, approved its statutes and appointed members of the organs is required for registration and • An annual action plan of the organization with its source of budget/funds is required for registration
3.	France	<ul style="list-style-type: none"> • Creation of a cult observatory for better understanding of cults and dissemination of knowledge; stricter application of existing laws; increased international and Community cooperation and intergovernmental cooperation. • On May 30, 2005, the French National Assembly passed a new law for the "<i>Prevention and Repression of Cultic Movements.</i>" The law permits the French judiciary to dissolve a religious organization when one of its leaders, or the movement itself, is convicted of crimes. It also makes a crime out of "<i>the deceptive abuse of the state of ignorance or weakness</i>", meaning psychological manipulation. • Develop a criterion for the identification of cults that is characteristics and manifestations • The Upholding Republican Values law (2021) requires audits of associations, including those that are religious in nature, that receive foreign funding of more than €153,000 (\$163,000) per year. • Counterterrorism legislation grants prefects in each department the authority to close a place of worship for a maximum of six months if they find that comments, writings, or activities in the place of worship "provoke violence, hatred, or discrimination or the commission of acts of terrorism or praise such acts of terrorism."
4.	Japan	<ol style="list-style-type: none"> 1. Following investigation into activities of the Unification Church guidelines were published in December 2022 by the Ministry of Health, Labor, and Welfare for local governments. The guidelines outlined how religious doctrine could constitute child abuse, based on its interpretation of the Child Abuse Prevention Act. The guidelines stated that- <ol style="list-style-type: none"> (1) corporal punishment for enforcing religious doctrine could constitute physical abuse; (2) psychological abuse towards children could include verbal threats such as- <ol style="list-style-type: none"> a) telling the child that they will go to hell; b) forcing participation in religious activities, including proselytization; c) impeding the free choice of education or career; d) restricting freedom of marriage or friendship; and e) forbidding access to age-appropriate entertainment for religious reasons. (3) According to the guidelines, statutory child abuse includes- <ol style="list-style-type: none"> a) banning a child's access to medical treatment; and

		<p>b) showing children age-inappropriate sexual material⁵⁸.</p> <p>2. Under the “right of inquiry” provision of the Religious Corporation Act, the government may investigate religious corporations suspected of committing acts that are illegal or are deemed to clearly harm the public welfare. A court may order the dissolution of a religious corporation if the court finds they have committed such acts.</p>
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499. The Committee observed based on the above summary that some of the best practices with respect to the legal framework were that the jurisdictions examined had put in place comprehensive legal frameworks for the regulation the operation of religious organisations. The Committee noted that the role of local authorities, which would be equivalent to county governments in registration of religious groups was well set out in law.
500. Additionally, matters such as financial probity and taxation, requirements to submit a statement of faith or doctrine at registration, requirements for membership of an umbrella body were also well set out in the sampled jurisdictions. The Committee further noted that in Rwanda, requirements for theological qualifications for representatives of religious institutions is a requirement for registration. With respect to the response to violent cult incidences, the Committee observed that the French National Assembly in its recommendations has proposed the creation of a cult observatory to better understand and monitor cults.
501. The Committee observed that the impact of the Shakahola tragedy on children was distressing. In this respect, the Committee noted that in response to violent cult incidences, Japan put in place a law that requires a financial audit of religious organisations particularly those with foreign funding as well as giving security agencies a ‘right of inquiry’ to investigate suspicious activities by religious organisations. Additionally, the Japanese Ministry of Health, Labour, and Welfare for local governments issued guidelines on the protection of children with respect to religious organisations.

RECOMMENDATION

502. **The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others.**

⁵⁸ U.S. Department of State, 2022 Report on International Religious Freedom: Japan. Retrieved from <https://www.state.gov/reports/2022-report-on-international-religious-freedom/japan> [accessed on 29.06.2023]

5.6.MANDATE 6: OTHER OBSERVATIONS THAT WILL PREVENT RELIGIOUS ORGANIZATIONS FROM EXTREME INDOCTRINATION OF THEIR FOLLOWERS INCLUDING RADICALIZATION, SPIRITUAL AND FINANCIAL EXPLOITATION

5.6.1. Mental Health Concerns and Facilities

503. The Committee observed that the country lacks a mental health framework for handling mass atrocities. There is need for psychiatrists and trauma counselors to be deployed at the county level to effectively de-radicalize and counsel survivors and all persons involved in the tragedy. There is also a need for rehabilitation, psychosocial, and reintegration programs aimed at children and adults exposed to the radical ideology as well as their next of kin to facilitate the safe return of the victims to their homes, families and communities.
504. In line with this, the Committee noted that there were inadequate rescue centers for adults and children in the counties. As such, county governments should establish functional rescue centres and operational counselling centres to provide mental health and support to victims of such tragedies. Further, the Committee noted there was inadequate mortuary facilities in Kilifi County to handle the volume of bodies that were exhumed from the site in Shakahola.

RECOMMENDATIONS

505. **The Committee recommends that the Cabinet Secretary for Health within ninety (90) days of adoption of this report-**
- (a) develops guidelines on the long term mental health care to guide the handling of mass atrocities and address the trauma and long-term impact of such tragedies on survivors and their families;**
 - (b) deploys mental health experts including psychiatrists and trauma counselors towards proper and effective de-radicalization and counseling of the survivors, security agencies and all responders engaged in the tragedy;**
 - (c) develops guidelines on actions to be taken where there is denial of life-saving medical care by patients related to harmful religious doctrine particularly with respect to children; and**
 - (d) partners with other key agencies including the Department of Children’s Services, in establishing rehabilitation, psychosocial, and reintegration programs for children and adults exposed to the radical ideology as well as their next of kin and to facilitate the safe return of the victims to their homes, families, and communities.**
- (2) The Committee recommends that the County Government of Kilifi allocate resource in the next financial year 2024/2025 to construct mortuary facilities to address the current shortage.**

5.7. OTHER OBSERVATIONS AND RECOMMENDATIONS

506. The Committee noted that there were other emerging issues regarding the proliferation of religious organisations as well as the events in Shakahola that required government agencies to address as outlines below—

5.7.1. Broadcasting Channels attributed to Good News International Church

507. The Committee observed that Paul Mackenzie acquired a licence to air his harmful teaching on Times TV. On or about 2019 or 2020 Ezekiel Odero of New Life Ministries. Ezekiel Odero of the New Life Church appeared before the Committee on Friday, 13th October 2023 accompanied by his legal representatives Danstan Omari and Associates Advocates. The Committee observed that he settled in Mavueni in Kilifi County and established New Life Ministry which was registered on 11th September, 2011 and currently has 45,000 congregants. Ezekiel Odero further submitted that the facility had an international school and a hotel within its premises. He further stated that, the ideology of his ministry was based on the gospel and charity to the community. The Committee observed that there was a link between Paul Mackenzie and Ezekiel Odero through the business transaction.

508. The Committee observed that there was no licensing category for religious broadcasting stations. Therefore, broadcast stations carrying out religious programming as their main genre are licensed either as commercial or community broadcasters. The licences issued by Communication Authority under each category have uniform terms and conditions to be complied with, irrespective of whether the programming is religious or otherwise.

RECOMMENDATIONS

509. **The Committee recommends that the Director of Criminal Investigations investigates the relationship between Paul Mackenzie and Ezekiel Odero with a view of establishing any criminal culpability of Ezekiel Odero in aiding or abetting the event in the Shakahola tragedy within thirty (30) days of the adoption of this report.**
510. **The Committee recommend that Communications Authority creates a licensing category for religious broadcasting stations and develops guidelines for approval and monitoring of content of said category of stations within ninety (90) days of adoption of this report by the Senate.**

5.7.2. Ownership of Chakama Ranching Company Limited

511. The Committee observed that the unfortunate events took place within Chakama Ranch owned by Chakama Ranching Company Limited (in liquidation). The Committee observed that The parcel L.R. No. 13472, measuring approximately 100,000 acres,

initially owned by Chakama Ranching Company Limited, was subdivided equally into L.R. No. 13472/1 and L.R. No. 13472/2. 50,000 acres of 13472/2 was sold to the Settlement Fund Trustees for settlement of Internally Displaced Persons, and the company remained with 50,000 acres of 13472/1, which was further subdivided into L.R. No. 13472/3 and 13472/4. However, parcels L.R. No. 13472/7, 13472/8 and 13472/4, totalling to approximately 50,000 acres are where majority of death took place.

512. The Committee observed that before the appointment of the Official Receiver on 29th February, 2016, the company was managed by six Kenyan directors namely Daniel Kitsayo Baya, Alfred Mukare Mwathethe, Rachael Furaha, Amina Harith, James Mulewa, Dickson Ngowa. The Official Receiver noted that at the time, Chakama Ranch had two main creditors, one Francis Mulwa who was owed legal fees plus interest of Kshs. 15,000,000 and Continental Credit Finance Limited, who had a charge of Kshs. 44,838,350 plus interest. The charge to Continental Credit Finance Limited on Chakama Ranching Company Limited of L.R. 13472/1 (in liquidation) dated 20th April, 1986, was used to secure a loan of Kshs. 60,000,000 granted to Aqua Agro Limited. The representatives of Aqua Agro Limited who signed the charge are Francis Mburu and John Williams, the directors of the company.
513. The Committee observed that Paul Mackenzie did not have authority to occupy the aforementioned pieces of land. However, the Committee observed that Paul Mackenzie purported to enter into an agreement for lease of 800 acres from Wamwabaya Mwaro Clan, for Kshs. 800,000. From this amount Paul Mackenzie purportedly paid Kshs. 100,000, however the Committee could not establish whether the rest of the amount was paid. The agreement was however, only executed by Mackenzie and the persons witnessing his signature.
514. The Committee observed that Paul Mackenzie lured his followers to Shakahola Forest with the promise of selling them land that he did not have legal ownership of at Kshs. 2000 per acre.
515. The Committee further observed that there was poor supervision of vast tracts of land in Kilifi County making the County susceptible to extremist activities.

RECOMMENDATIONS

516. **Based on the above observations the Committee recommends that—**
- (1) The Cabinet Secretary for Interior and National Administration in consultation with the Cabinet Secretary for Lands, Public Works, Housing and Urban Development ensures that the land in Shakahola Forest where**

the gruesome events took place continue to be *gazetted* as a disturbed area until investigation are complete.

- (2) **The Cabinet Secretary for Lands, Public Works, Housing and Urban Development ensure that the lease held by Chakama Ranching Limited (in liquidation) reverts back to the National Government upon its expiry.**
- (3) **Aqua Agro Limited whose representatives Francis Mburu and John Williams secured a loan of Kshs. 60,000,000 charged to Continental Credit Finance Limited on Chakama Ranching Company Limited of L.R. 13472/1 (in liquidation) should provide details on the nature of the agreement between the company (Agro Limited) and Chakama Ranching limited (in liquidation) and the purpose of the loan to the Senate. Additionally, the other creditor one Francis Mulwa who is owed legal fees plus interest of Kshs. 15,000,000 should provide details of the agreement.**
- (4) **The Cabinet Secretary for Lands, Public Works, Housing and Urban Development in consultation develops a policy framework on minimum and maximum land holding acreage in respect to private land to give effect to Article 68(c) (i) of the Constitution.**
- (5) **The County Government of Kilifi—**
 - (a) **facilitates Kaya Elders to conduct traditional cleansing of the Shakahola Forest land where the tragedy took place; and**
 - (b) **establishes a memorial in the Shakahola area to honor those who lost their lives.**

5.8. SUMMARY OF RECOMMENDATIONS AND PENDING ISSUES

517. The Committee noted that due to time and resource constraints, it was unable to conclusively determine a number of issues within its mandate. The Committee therefore recommends that Standing Committees as directed by the Speaker of the Senate follow up on the recommendations made by the Committee as well as other pending issues to their logical conclusion as outlined the matrix below-

SUMMARY OF RECOMMENDATIONS AND PENDING ISSUES

MANDATE I: INVESTIGATE THE CIRCUMSTANCES LEADING TO THE DEATH OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH LED BY ONE PAUL MACKENZIE NTHENGE IN SHAKAHOLA VILLAGE, KILIFI COUNTY					
	ISSUE	RECOMMENDATIONS	ACTION	RESPONSIBILITY	TIMELINES
1.	Role of Paul Mackenzie in the death of the followers of Good News International Ministries	Investigate expeditiously the atrocious and heinous actions committed by Paul Mackenzie with a view to recommending his prosecution within thirty (30) days of adoption of this report by the Senate.	Director of Criminal Investigation Director of Public Prosecution	Senate Standing Committee on National Security, Defence and Foreign Relations	30 days
2.		Any individual directly or indirectly connected with, aided or abetted the atrocious and heinous actions committed by Paul Mackenzie be investigated with a view to prosecution within thirty (30) days of adoption of this report by the Senate.	Director of Criminal Investigation Director of Public Prosecution	Senate Standing Committee on National Security, Defence and Foreign Relations	30 days
3.		Investigate with a view to expel from the Republic of Kenya any foreign person or entity advancing the doctrines or activities of the entity/group/religious outfit known	Director of Criminal Investigation in conjunction with the Department of	Senate Standing Committee on National Security, Defence	30 days

		as 'A Voice in the Desert' also known as 'Jesus Christians' connected to one Dave and Sherry Mackay and their associates and bar their future entry into the Republic of Kenya within thirty (30) days of adoption of this report by the Senate	Immigration and the Ministry of Foreign Affairs	and Foreign Relations	
4.		Investigate with a view to expel from the Republic of Kenya any foreign person or entity advancing the doctrines or activities of the entity/group/religious outfit known as 'A Voice in the Desert' also known as 'Jesus Christians' connected to one Dave and Sherry Mackay and their associates and bar their future entry into the Republic of Kenya within thirty (30) days of adoption of this report by the Senate.	Director of Criminal Investigation in conjunction with the Department of Immigration and the Ministry of Foreign Affairs	Senate Standing Committee on National Security, Defence and Foreign Relations	30days

		Submit a progress report to the Senate on the status of investigations, number of bodies exhumed, number of autopsies conducted, progress of DNA testing and matching, number of survivors reunited with family members, condition of survivors particularly children every thirty (30) days from the date of adoption of this report by the Senate until the completion of investigation and handing over of the final investigation report to the Director of Public Prosecutions.	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National Security, Defence and Foreign Relations	30days
5.		Pursue the prosecution of the existing charges against Paul Mackenzie as well as lodge fresh formal charges against Paul Mackenzie and other persons revealed to be culpable.	Director of Public Prosecutions	Senate Standing Committee on National Security, Defence and Foreign Relations	30 days
6.		Formulate and issue guidelines setting out criteria for identification of harmful religious doctrines and clear procedures for County Security	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National	90 days

		Committees to monitor and expedite action on intelligence reports pertaining to individuals and religious organisations advancing harmful religious doctrines within ninety (90) days of adoption of this report by the Senate.		Security, Defence and Foreign Relations Committee on Delegated Legislation	
7.	Good News International Ministries and Good News Media (K) Limited	Shut down any physical premises of Good News International Ministries and Good News Media (K) Limited and their affiliates operating within the Republic of Kenya within thirty (30) days of adoption of this report by the Senate.	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National Security, Defence and Foreign Relation	30 days
8.		a) investigate the Good News International Ministries and Good News Media (K) Limited with a view to prosecute the officials, directors, shareholders and any associates linked to the entities and upon conviction be liable to the most severe punishment available in law; and b) investigate Good News International Ministries and Good News Media (K) Limited	Cabinet Secretary for Interior and National Administration Director of Criminal Investigations	Senate Standing Committee on National Security, Defence and Foreign Relation	30 days

		with a view to establish its cash flows, foreign links, assets and possibility of money laundering.			
9.		Initiate the process of freezing the assets belonging to Paul Mackenzie and any of his associates and the proceeds be used to compensate the families of deceased victims.	Cabinet Secretary for Interior and National Administration Director of Criminal Investigations Director of Public Prosecutions	Senate Standing Committee on National Security, Defence and Foreign Relation	90 days
10.		Declare Good News International Ministries and Good News Media (K) Limited organized criminal organizations pursuant to section 22 of the Prevention of Organised Crimes Act, 2010 within thirty (30) days of adoption of this report by the Senate.	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National Security, Defence and Foreign Relation	30 days
11.		Investigate with a view to prosecute any person or entity involved in the filming, production, dissemination or distribution of media content in any form and on any media platform that advances the doctrine of Paul Mackenzie or his associates, Good News International Ministries and Good News Media (K) Limited	Director of Criminal Investigations Communications Authority	Senate Standing Committee on National Security, Defence and Foreign Relation Standing Committee on ICT	30 days

		within thirty (30) days of adoption of this report by the Senate.			
12.		Deregister Good News International Ministries and bar Paul Mackenzie and all the officials of Good News International Ministries from registering a society or any other legal entity.	Attorney General Registrar of Societies	Senate Standing Committee on National Security, Defence and Foreign Relation Standing Committee on ICT	30 days
13.		Deregister Good News Media (K) Limited and bars Paul Mackenzie and directors of Good News Media (K) Limited from holding a director's position in any other registered company.	Attorney General Registrar of Societies	Senate Standing Committee on National Security, Defence and Foreign Relation Standing Committee on ICT	30 days
14.		Facilitate the survivors to regain their vital documents such as National Identity Cards, Birth Certificates, Title Deeds, Academic Certificates and Marriage Certificates which were destroyed as a result of the indoctrination.	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National Security, Defence and Foreign Relation	30 days

15.		Engage YouTube, Facebook and other social media networks and sites that have content associated with Paul Nthenge Mackenzie and his teachings with	Cabinet Secretary, Information, Communication and Digital Economy Communications Authority	Senate Standing Committee on ICT	30days
16.		Establish an engagement framework with popular social media platforms to mitigate the spread of harmful radical ideology, doctrines, misinformation and fake news	Cabinet Secretary, Information, Communication and Digital Economy Communications Authority	Senate Standing Committee on ICT	30 days
17.		Ensure that all media platforms in Kenya deplatform Paul Nthenge Mackenzie and his associates and refrain from giving any interviews and attention that would promote his teachings or lead to the recruitment of more followers	Cabinet Secretary, Information, Communication and Digital Economy Communications Authority Media Council of Kenya	Senate Standing Committee on ICT	30 days

MANDATE 2: INVESTIGATE THE ROLE PLAYED BY ONE PAUL MACKENZIE OF THE GOOD NEWS INTERNATIONAL CHURCH, HIS PASTORAL TEAM AND THE KILIFI COUNTY SECURITY COMMITTEE IN AIDING AND ABETTING THE DEATHS OF THE FOLLOWERS OF THE GOOD NEWS INTERNATIONAL CHURCH IN SHAKAHOLA, KILIFI COUNTY

	ISSUE	RECOMMENDATION	ACTION	REPORTING	TIMELINE
18.	Failure in the Security System	Severely sanction all security officers whose acts of commission or omission abetted or aided the Shakahola tragedy including— <ol style="list-style-type: none"> 1. Joseph Kemboi 2. Charles Kamau Wanguhu 3. Solomon Odera 4. Argamso Guracha 5. Augusto Okuna 6. Hassan Hamara 7. Calvin Malowa Otieno 8. Daniel Muthusi Muleli 9. Jecinta Wesonga 10. Paul Maweu 11. Joseph Yator 	National Police Service Commission	Senate Standing Committee on National Security, Defence and Foreign Relations	30 days
19.		Investigate the security officers and national administration officers, including the former members of the Kilifi County Security Committee, whose acts of commission or omission abetted or aided the events leading to the Shakahola tragedy with a view to recommending prosecution by the Director of Public Prosecutions.	Director of Criminal Investigations Director of Public Prosecutions.	Senate Standing Committee on National Security, Defence and Foreign Relations	30 days

20.		Severely sanction National Administration Officers whose acts of commission or omission abetted or aided the Shakahola tragedy	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National Security, Defence and Foreign Relations	30 days
21.		Establish a multi –agency and multi-stakeholder de-radicalization and rehabilitation committee to facilitate the reintegration of the survivors to their homes, families and communities	Cabinet Secretary for Interior and National Administration	Senate Standing Committee on National Security, Defence and Foreign Relations	60 days
22.		Support and protect witnesses identified by the Director of Criminal Investigations and the Director of Public Prosecutions.	Witness Protection Agency	Senate Standing Committee on National Security, Defence and Foreign Relations	Continuous
23.		Investigate maladministration, discourtesy, incompetence, inefficiency or ineptitude within the National Government Administrators that may have contributed to the occurrence of the Shakahola tragedy.	Commission on Administrative Justice	Senate Standing Committee on Justice, Legal Affairs and Human Rights	60 days
24.		Clearly identify and distinguish the perpetrators and victims as to clearly determine who bears	Director of Public Prosecution	Senate	60 days

		criminal culpability and who needs support, care and protection.		Standing Committee on Justice, Legal Affairs and Human Rights	
25.		Facilitate the allocation of adequate funds to all the agencies dealing with the various aspects of the Shakahola tragedy such as the Directorate of Criminal Investigations, the Correctional Services Department, the Children Services Department, the Directorate of Medical Services, the Kenya National Commission on Human Rights, the Office of the Director of Public Prosecutions, the Government Chemist and Rescue Centers.	The National Treasury	Senate Standing Committee on Finance	Continuous
26.		Cause the gazettelement of guidelines for appointment and removal of members of the County Policing Authority in accordance with section 41 (8) of the National Police Service Act, 2011	Chairperson of the Council of Governors	Senate Standing Committee on National Security, Defence and Foreign Relations	
27.		Ensure the appointment of members of the respective County Policing Authority in accordance with section 41 of the National Police Service Act, 2011.	County Governors	Senate Standing Committee on National Security, Defence and Foreign Relations	60 days

28.		Invest in rescue centres for adults and children.	County Governments	Senate Standing Committee on Labour and Social Welfare	Continuous
29.		Establish, maintain and manage proactive systems, policies and legislation on disaster mitigation, preparedness, response and recovery.	Cabinet Secretary for Interior and National Administration and County Governors	Senate Standing Committee on National Security, Defence and Foreign Relations	Continuous
30.		Develop information materials or announcements in the media for families to understand the procedure and how to follow up after the registration of missing persons and the remaining process in the DNA matching and releasing of bodies for burial.	Director of Criminal Investigations	Senate Standing Committee on National Security, Defence and Foreign Relations	Immediate
31.		Develop information materials encourages survivors and witnesses who have not recorded their individual statements should come forth and document the same to facilitate accountability and justice without fear of criminalization.	Director of Criminal Investigations	Senate Standing Committee on National Security, Defence and Foreign Relations	Immediate
32.		National Forensic Laboratory is adequately funded and able to conduct DNA matching	Cabinet Secretary for Interior and National Administration	Senate	Immediate

				Standing Committee of Finance	
MANDATE 3: ESTABLISH THROUGH THE OFFICE OF THE REGISTRAR OF SOCIETIES, THE NUMBER AND ACTIVITIES OF RELIGIOUS GROUPS IN THE COUNTRY INCLUDING THEIR REGISTRATION AND COMPLIANCE STATUS					
	ISSUE	RECOMMENDATION	ACTION	REPORTING	TIMELINE
33.	Number of Activities and Religious Groups in the Country	The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others.	Parliament	Parliament	12 months
MANDATE 4: AUDIT THE LEGAL AND REGISTRATION FRAMEWORK FOR RELIGIOUS ORGANIZATIONS IN THE COUNTRY					
	ISSUE	RECOMMENDATION	ACTION	REPORTING	TIMELINE
34.	Current Legal Framework for Registration, Regulation and Compliance	The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the	Parliament	Parliament	12 months

		office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others			
35.		The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others.	Parliament	Parliament	12 months
36.		Religious Organisations sharing the same faith will be required to register a consortium/umbrella body of not less than twenty-five (25) members with— (f) board (g) constitution (h) statement of faith (i) KRA pin (j) source of funds	Parliament	Parliament	12 months
37.		All religious organisations will be required to be a member of a consortium/ religious umbrella body to be approved for registration by the proposed Registrar of Religious	Parliament	Parliament	12 months

		Organisations within two (2) of year of commencement of the proposed Religious Organisation Bill, 2023.			
38.		All religious organisations should institute a Board of management that deals with the financial management, human resources, assets and liabilities, businesses, filing of KRA returns of the religious organisation separate from the purely religious activities that deal with spiritual matters.	Parliament	Parliament	12months
39.		Following formation and registration of an umbrella body of a particular faith, the umbrella body is required to develop and submit to the Registrar of Religious Organisations a theological training curricula for religious leaders, guidelines on the exercise and activities of the religious organisations.	Parliament	Parliament	12months
40.		Degree for religious leaders within in six (6) years of the commencement of the propose Religious Organisations Bill, 2023.	Parliament	Parliament	12 months

MANDATE 5: DEVELOP A LEGISLATIVE PROPOSAL ON REGULATION OF RELIGIOUS ACTIVITIES IN THE COUNTRY					
	ISSUE	RECOMMENDATION	ACTION	REPORTING	TIMELINE
41.	Self-Regulation and State-Regulation of Religious Organisations	The Committee recommends that Parliament enacts the proposed Religious Organisations Bill, 2023 to provide a legislative framework for the regulation of religious organisations; establishment of the office of the registrar of religious organisations, registration framework, qualification of religious leaders, offences and penalties for non-compliance among others.	Parliament	Parliament	12 months
MANDATE 6: OTHER OBSERVATIONS THAT WILL PREVENT RELIGIOUS ORGANIZATIONS FROM EXTREME INDOCTRINATION OF THEIR FOLLOWERS INCLUDING RADICALIZATION, SPIRITUAL AND FINANCIAL EXPLOITATION					
	ISSUE	RECOMMENDATION	ACTION	REPORTING	TIMELINE
42.	Mental Health Concerns and Facilities	(3) Develops guidelines on the long term mental health care to guide the handling of mass atrocities and address the trauma and long-term impact of such tragedies on survivors and their families; (4) Deploys mental health experts including psychiatrists and trauma counselors towards	Cabinet Secretary of Health	Senate Standing Committee on Health	90 ays

		<p>proper and effective de-radicalization and counseling of the survivors, security agencies and all responders engaged in the tragedy;</p> <p>(5) Develops guidelines on actions to be taken where there is denial of life-saving medical care by patients related to harmful religious doctrine particularly with respect to children; and</p> <p>(6) Partners with other key agencies including the department of children's services, in establishing rehabilitation, psychosocial, and reintegration programs for children and adults exposed to the radical ideology as well as their next of kin and to facilitate the safe return of the victims to their homes, families, and communities.</p>			
43.		Allocate resource in the next financial year 2024/2025 to construct mortuary facilities to address the current shortage.	County Government of Kilifi	Senate Standing Committee on Health	Continuous
44.	Broadcasting Channels attributed to Good News International Church	Investigate the relationship between Paul Mackenzie and Ezekiel Odero with a view of establishing any criminal culpability of Ezekiel Odero in aiding or abetting the event in the Shakahola tragedy	Director of Criminal Investigations	Senate Standing Committee on National Security,	30 days

				Defence and Foreign Relations	
45.		Create a licensing category for religious broadcasting stations and develops guidelines for approval and monitoring of content of said category of stations within sixty (60) days of adoption of this report by the Senate	Communications Authority	Senate Standing Committee on ICT	90 days
46.	Ownership of Chakama Ranching Company Limited	(a) Ensure that the land in Shakahola Forest where the gruesome events took place continue to be gazetted as a disturbed area until all the investigations are complete. (b) Ensure that the lease held by Chakama Ranching Limited (in liquidation) reverts back to the National Government upon its expiry.	Cabinet Secretary for Interior and National Administration Cabinet Secretary for Lands, Public Works, Housing and Urban Development	Senate Standing Committee on National Security, Defence and Foreign Relations Standing Committee on Land, Environment and Natural Resources	Continuous
47.		Aqua Agro Limited whose representatives Francis Mburu and John Williams secured a loan of Kshs. 60,000,000 charged to Continental Credit Finance Limited on Chakama Ranching Company Limited of L.R. 13472/1 (in liquidation) should provide details on the nature of the agreement between the company (Agro Limited) and Chakama Ranching	Aqua Agro Limited Francis Mulwa	Senate Standing Committee on Land, Environment and Natural Resources	

		limited (in liquidation) and the purpose of the loan to the Senate. Additionally, the other creditor one Francis Mulwa who is owed legal fees plus interest of Kshs. 15,000,000 should provide details of the agreement.			
48.		Develop a policy framework on minimum and maximum land holding acreage in respect to private land to give effect to Article 68(c) (i) of the Constitution.	The Cabinet Secretary for Lands, Public Works, Housing and Urban Development	Senate Standing Committee on Land, Environment and Natural Resources	Continuous
49.		(a) Facilitate Kaya Elders to conduct traditional cleansing of the Shakahola Forest land where the tragedy took place; and (b) Establish a memorial in the Shakahola area to honor those who lost their lives	County Government of Kilifi	Senate	Continuous

**REPORT OF THE AD HOC COMMITTEE TO INVESTIGATE THE
PROLIFERATION OF RELIGIOUS ORGANISATIONS AND
CIRCUMSTANCES LEADING TO MORE THAN 95 DEATHS IN
SHAKAHOLA, KILIFI COUNTY**

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PICTORIALS



Where it all began: Attorney General Justin Muturi in a conversation with members soon after he made his presentation in the first public hearing of the Ad Hoc Committee



Members of the Ad Hoc Committee led by chairperson Danson Mungatana pose for a picture after the first public meeting in May 2023



Members of the Ad Hoc led by Chairperson Danson Mungatana escort Interior CS Kithure Kindiki after his first appearance.





The Director General, Communications Authority of Kenya, Mr. Ezra Chiloba appearing before the Committee



Senators Tabitha Mutinda, Shakila Mohamed and Veronica Maina during a sitting in Kisumu County



Senators Tabitha Mutinda, Shakila Mohamed and Veronica Meeting when they met Mr Owili, the Kisumu Deputy Governor during the county visit in June, 2023



An impromptu tour by the Ad Hoc to the Holy Ghost Coptic Church premises in Kisumu gave freedom to a number of people who were being held at the facility against their wish



Senators David Wakoli, Hamida Kibwana, Shakila Mohamed and Veronica Maina at the Holy Ghost Coptic Church



Mr. Irungu Houghton of Amnesty International makes his presentation to the Ad Hoc Committee



Senator Danson Mungatana, the Chairperson of the Ad Hoc Committee, exchanges cards with Mr Salim Ndemo, former chairperson of National Steering Committee on Nyumba Kumi



There are times when the evidence could be emotional draining: Ad Hoc Committee Chairperson Danson Mungatana



Members of the Ad Hoc Committee, follow the presentation when CS Kindiki appeared on behalf of Security officers who served in Kilifi County before they were transferred after the tragedy became public





Members of the Ad Hoc Committee, follow the presentation when CS Kindiki appeared on behalf of Security officers who served in Kilifi County before they were transferred after the tragedy became public



Senators David Wakoli (left) Danson Mungatana, the chairperson share a light moment with ICT CS Eliud Owalo after the meeting



Chairperson Danson Mungatana and Senator William Cheptumo pose for a picture with Bishop Margret Wanjiru and representatives of Prophet Owuor Church



Lawyer Gerald Odiwuor, who made presentation on behalf of Repentance and Holiness Ministry associated with Prophet Owuor.



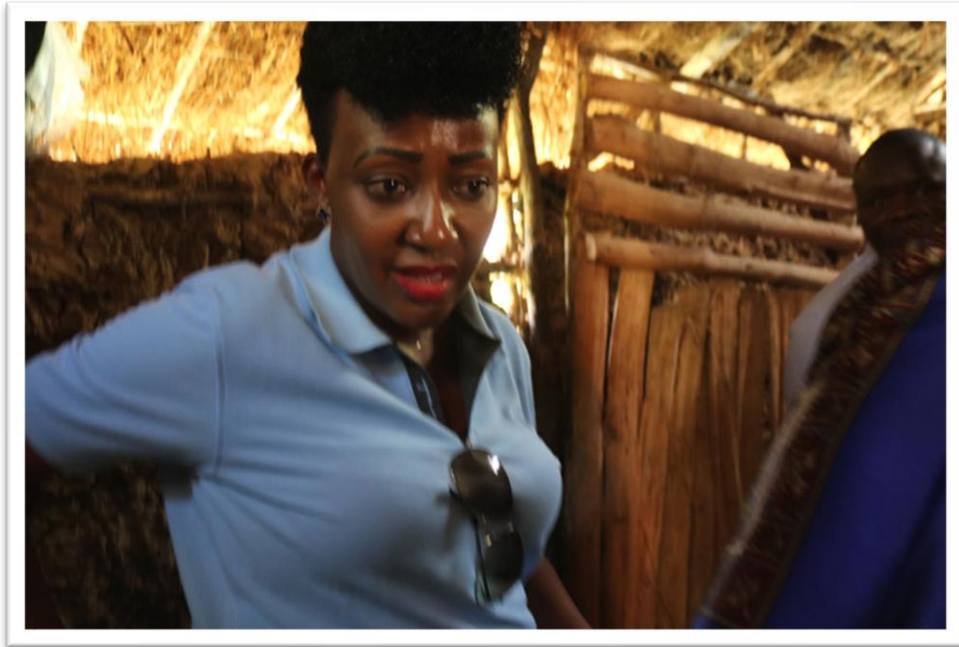
The Kilifi County Assembly also had its own Ad Hoc Committee that investigated the matter. In these pictures, Chairperson Danson Mungatana is seen with MCAs who sat on the committee.





Mr Amin Mohamed, the Director of DCI, and his team when they appeared before the committee





Shock: Senator Tabitha Mutinda facial expression when she visited one of the shanties of Paul Mackenzie followers within Chakama Ranch.



Senator Veronicah Maina with Kilifi County Police Commander, Ms. Fatuma



Chairperson Mungatana receives a brief from members of the Kilifi County Security team during the tour of the scene of crime.



At Hell's Gate: Members of Ad Hoc take a picture at the gate of Paul mackenzie's Home deep inside Shakahola Forest.





Senator Cheptumo and Kilifi County Commissioner Joseph Biwott at the doorstep of Paul Mackenzie's House in Shakahola Forest.





Members of the Ad Hoc Committee inside Paul Mackenzie's House



