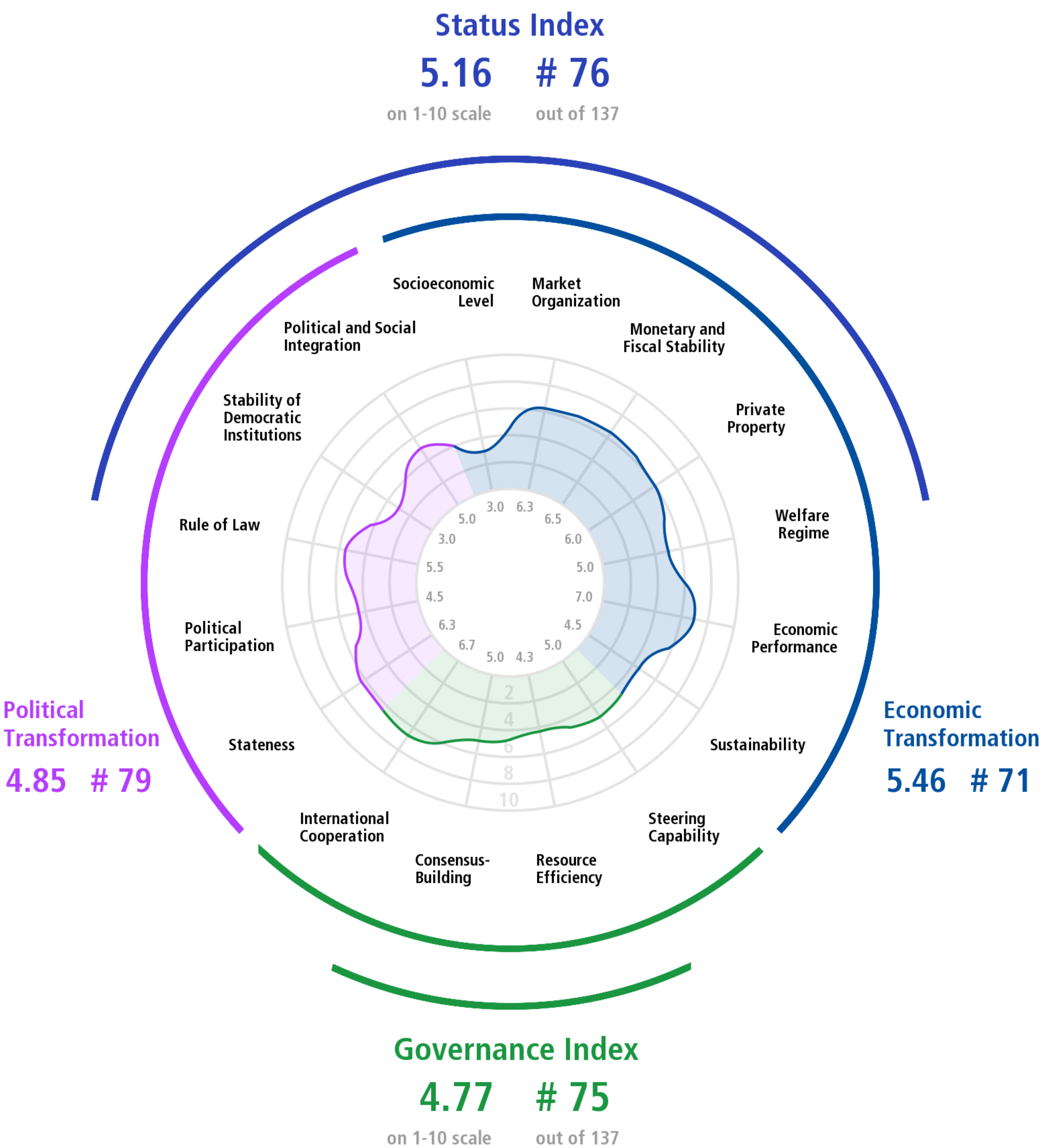
BTI 2020 Country Report

Kenya



This report is part of the **Bertelsmann Stiftung's Transformation Index (BTI) 2020**. It covers the period from February 1, 2017 to January 31, 2019. The BTI assesses the transformation toward democracy and a market economy as well as the quality of governance in 137 countries. More on the BTI at https://www.bti-project.org.

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Key Indicators

Population	M	51.4	HDI	0.579	GDP p.c., PPP	$	3461
Pop. growth[1]	% p.a.	2.3	HDI rank of 189	147	Gini Index		40.8
Life expectancy	years	65.9	UN Education Index	0.526	Poverty[3]	%	66.2
Urban population	%	27.0	Gender inequality[2]	0.545	Aid per capita	$	49.3

Sources (as of December 2019): The World Bank, World Development Indicators 2019 | UNDP, Human Development Report 2019. Footnotes: (1) Average annual growth rate. (2) Gender Inequality Index (GII). (3) Percentage of population living on less than $3.20 a day at 2011 international prices.

Executive Summary

During the review period, politics and political alignments in Kenya remained strongly influenced by ethno-regional calculations. Elections were hotly disputed, as the election management bodies have not been able to withstand the extremely strong political pressure from the executive. Both presidential and legislative elections experienced varying degrees of shambolic organization and chaos, subjecting the country to violence and long periods of political polarization.

The presidential election in 2017 was annulled by the country's Supreme Court and had to be re-run. After the repeated presidential election, won by incumbent President Kenyatta and boycotted by the main opposition candidate Raila Odinga, the country remained highly polarized for months. Only a sudden mending of fences and the surprising initiation of cooperation between President Kenyatta and opposition leader Odinga calmed the situation in the country. The cooperation ended the political and economic uncertainties that had seized the country at the start of the election campaign in March 2017 and lasted until a year later.

In the review period, the judiciary in the Supreme Court and the high-court level braved political pressure in order to largely maintain allegiance to the constitution through a series of important rulings on election petitions that stressed the principles of accountability and transparency. Despite sweeping judicial reforms over the last decades, in parts of the judiciary, especially the lower level courts, pockets of corruption continue to threaten the delivery of justice and compromise judicial professionalism.

Devolution, a system adopted with the announcement of the new constitution in 2010, continues to be extremely popular among the majority of citizens in the country. County-level development projects, including roads and clinics, are increasingly visible and have spurred economic growth across sectors within Kenya's counties. However, criticism continues to grow regarding the localization of ethnic politics, inefficiency, the size of the country's wage bill and the "devolution" of corruption.

At the same time, there was a recurrence of grand corruption scandals at the national level. Corruption cases ranged from pilfering public funds to scandals surrounding grand schemes and artificial inflation of the prices of large public projects, like the standard-gauge railway, to procurement-related fraud that shook central government departments like the National Youth Service and State Department of Health. However, in March 2018, Kenyatta declared war against corruption, expressing a desire to make this his legacy. Thus, the country's fight against corruption has taken on life and enjoys political will at the highest level of leadership.

Real GDP growth remained buoyant, but the majority of the population has enjoyed only limited benefits, while the debt to GDP ratio continues to increase. Economic growth continued to be driven by investments in infrastructure, construction, financial services and communications, as well as by rapid urbanization, a burgeoning middle class, whose growth is evident in the mushrooming of shopping malls and supermarkets. The country experienced an average annual GDP growth rate of 5.6% between 2013 and 2018. The World Bank predicts similar rates for the medium term. This is, however, still below the projected 10% annual growth necessary to eradicate poverty by 2030 (according to Kenya's Sustainable Development Goals).

In addition, Kenyan society remains extremely stratified. The Inequality-adjusted Human Development Index (IHDI) at a value of 0.434 is about 26% lower than the country's HDI (0.59 in 2017). The government began a fiscal consolidation course in March 2018, with a number of wide-ranging measures, including not initiating any new projects until the previous ones have been completed. President Kenyatta in early 2019 appointed Cabinet Secretary for the Interior Fred Matiang'i to take charge of coordinating government project planning and implementation. This move is deemed an attempt to more closely control this aspect of state activity that is perceived to have opened doors to large-scale corruption. The cuts to spending are, however, problematic as they primarily focus on development, instead of on recurring expenditures, thereby jeopardizing growth prospects for the next financial year.

History and Characteristics of Transformation

Political transformation in Kenya remains shaped by its colonial legacy and ethnic divides (1896–1963). All four presidents in the country's 57 years of independence (Jomo Kenyatta 1963–1978, Daniel arap Moi 1978–2002, Mwai Kibaki 2002–2012 and Uhuru Kenyatta since 2013) have favored their own ethnic communities and regions, plus those of their close allies, leading to considerable discontent among the remaining ethnic groups.

In the fertile Rift Valley region, both Kikuyu and Kalenjin claimed land previously under colonial occupation. Competing ethnopolitical demands for land have never been resolved and remain a latent source of conflict between the two communities. The demand for greater equity in the country's resources among the regions became one of the dominant issues during the constitutional reform process (1999–2010). This led to a complete restructuring of the state's political and administrative framework as envisaged in the country's new constitution. This new dispensation started to take shape following the 2013 general elections with the creation of 47 counties. The counties are run by elected governors under the legislative oversight of elected members of county assemblies.

In addition to tensions between the Kikuyu and the Kalenjin, political antagonism developed between the Kikuyu and the Luo over the 1966 dismissal of Kenyatta's Luo Vice President Oginga Odinga. These tensions were worsened by a discarded political memorandum of understanding between Mwai Kibaki and Raila Odinga (son of Oginga Odinga) in 2002. This broke up an attempted political alliance and a power-sharing arrangement between the two rival ethnic groups. The resulting political squabbling within the government that brought President Moi's long rule to an end culminated in a highly disputed election in 2007, arguably won by Raila Odinga. Incumbent President Kibaki declared victory and swore himself in. This triggered violence on an unprecedented scale, leaving some 1,300 people dead and nearly 700,000 displaced.

Only an international diplomatic intervention, led by former U.N. Secretary-General Kofi Annan, ended the crisis and oversaw the formation of a government of national unity, with Kibaki as president and Odinga as prime minister. The grand coalition (2008–2013) managed to complete the constitutional review process. The progressive new constitution was ratified by a referendum and implemented. The coalition proved unwilling to prosecute the perpetrators of the 2008 post-election violence. Instead, the International Criminal Court (ICC) assumed jurisdiction over the cases and confirmed charges against four suspects, among them Uhuru Kenyatta and William Ruto, who were allegedly the antagonistic masterminds behind the post-election violence. The ICC cases fundamentally changed the political dynamics of the country. Kenyatta and Ruto joined forces to fight the ICC charges and won the presidential elections in 2013 and in 2017. After witnesses retracted their statements, while others died or disappeared, the charges were eventually dropped (against Kenyatta in 2014 and against Ruto in 2016).

The election victory by Kenyatta and Ruto (as running mates) was twice marred by irregularities, resulting in 2017 in the unprecedented nullification of the presidential elections by the Supreme Court. Kenyatta won the re-run of the elections in October 2017 by a wide margin, as Odinga boycotted the elections. The last three elections were all characterized by strong ethnopolitical polarization and a growing feeling of disenfranchisement, heavily dividing the country into those groups that had been in power since 1963 (Kikuyu and Kalenjin) and those that had been at the fringes or disenfranchised since independence (all the others).

The BTI combines text analysis and numerical assessments. The score for each question is provided below its respective title. The scale ranges from 1 (worst) to 10 (best).

Transformation Status

I. Political Transformation

1 | Stateness

Question Score

Monopoly on the use of force

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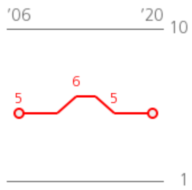

The state has, in principle, a monopoly in the use of force, but it is not always and not fully exercised throughout its territory. Particularly in the vast arid and semi-arid areas of the north and northeast with its low population density, state and police presence is low and the ability and determination to maintain law and order remains minimal. The common borders with Somalia and Sudan are porous, allowing undetected imports of weapons and explosives by the radical Islamist terror group, al-Shabaab, which have been used in several high-profile terror attacks on Kenyan soil (2013: Westgate Shopping Mall in Nairobi, 2015: University of Garissa and 2019: Dusit Hotel in Nairobi).

Political interference, lack of proper security oversight and high levels of corruption, as well as technical and organizational deficiencies within the police force, are the main reasons for these gaps. This includes a now divided and largely defunct Kikuyu based Mungiki sect, as well as relatively small groups in the slum areas of Nairobi and Kisumu, which de facto replace law and order with an alternative order based on violence and fear. In rural areas, the police have failed to curtail armed banditry. A massive fresh recruitment of police officers has improved the police citizen ratio from one officer for 1,150 citizens in 2009 to a ratio of 1:450 in 2017 (total police force is around 100,000).

Kenya remains affected by the state crises in neighboring countries. Kenya currently provides shelter to more than 300,000 refugees, mainly from South Sudan and Somalia. Kenyan authorities have said that refugee camps, especially those close to the common border with Somalia, are alleged hiding and breeding grounds for al-Shabaab terrorists. This is what informs the push by the Kenya government to close these camps. The latest plan in this push is to close the Dadaab (at the Somalian border) and Kakuma (at the South Sudan border) refugee camps by August 2019. Past announcements by the Kenyan government that it would close the camps did not result in closure, as a result of international intervention.

State identity

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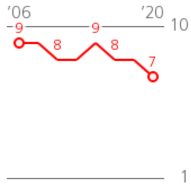

Since independence, more or less all major groups in society have respected the Kenyan state as legitimate. However, the strong centralization under the first three presidents (1964 – 2012), led to complaints from various ethnic, religious and nomadic groups regarding real or perceived marginalization. In reaction to those complaints and in recognition of over-centralization as one of the causes of the post-election violence in 2008, the 2010 constitution provides for a minimum of 15% of the country’s revenues to be annually allocated to the 47 counties.

To further reduce regional imbalances, the country’s least developed counties (14 in 2018) qualify for extra disbursement through an Equalization Fund ($118,000 million in 2018), which for technical hitches only started with the financial year 2017/18 (4 years late). Overall, devolution counties have experienced improvements in health care, road networks and government services. This resulted in a somewhat improved acceptance of the state and its institutions. However, the lack of integration and sometimes open harassment of the Muslim and Kenyan-Somali communities and political and social marginalization and exclusion of ethnic communities (Luo, Luhya, coastal people) have led to occasional calls for secession.

In principle, all groups and individuals have the right to acquire citizenship without discrimination. However, in practice, members of certain groups – such as ethnic Nubians and Somali – face significant problems gaining identification documents and are often required to provide additional evidence, resulting in at least temporary denial of full citizenship rights.

No interference of religious dogmas

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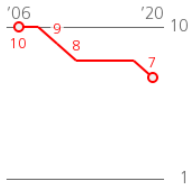

Since independence, religious dogmas have not interfered with the state’s legitimacy. There were close relations between the Anglican, Catholic, African Inland and Pentecostal churches and the Kenyatta, Moi and Kibaki regimes beginning with independence. That influence waned over the years and, by 2010, when the new constitution was passed, representatives of these respective churches felt as if their wishes were not being heeded and banded together to campaign against the new constitution.

The churches previously wielded informal but powerful influence through religious leaders’ personal relations with politicians, but no longer. As a result, during the 2010 referendum campaign on the proposed constitution, Christian churches rejected the new constitution and fought fiercely against its adoption. Both abortion on medical grounds and the constitutionality of Kahdi courts (Shariah courts) have long been a reality in Kenya.

Simultaneously, in the last two decades, a neo-pentecostalization of political culture and informal institutions has occurred. Politicians regularly seek to mobilize support and legitimize their positions through displays of religiosity. This includes the “laying on of hands” by clergy at political prayer meetings, rallies and political inauguration ceremonies.

In the restructuring of the state’s administrative framework through devolved government, there is an implicit recognition of the state’s past failure to provide services and to treat regions equally. The March 2013 establishment of 47 counties, each with its own governor and assembly, with new functions and responsibilities (leaving security and education as the only main services that are not devolved), is an attempt to bring service delivery closer to the people.

Basic administration
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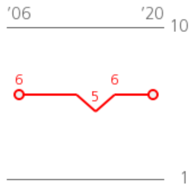

Despite some organizational deficiencies during the transition period and some inconsistencies in the provision of key public services, the county governments have clearly improved service delivery, especially in peripheral areas (e.g., Turkana and other parts of northern and northeastern Kenya).

The new constitution grants human rights, but in practice, people do not enjoy safe housing or access to clean water. Free primary and secondary education provision is fraught with corruption and hidden costs. Clean and safe drinking water is delivered in urban areas, but not in most rural areas. Adequate housing for all is far from reality as competing interests, and overlapping responsibilities between the Ministry of Land, Housing & Urban Development and the National Lands Commission paralyze program development.

The invalidation by a High Court in January 2017 of all title deeds issued by the ministry since 2013 reveals the disorganization of the whole land sector. The sustainability and earnestness of recent steps (from mid-2018 onward) to repossess illegally acquired or allocated land cannot yet be ascertained. Under the judicial reform framework, the judiciary has substantially reduced its case backlog and makes its services more accessible through the establishment of additional High and Magistrate Courts throughout the country. Administrative structures are not functioning because of corruption.

2 | Political Participation

Since independence, Kenya has conducted elections every five years. With the reintroduction of multiparty politics in 1991, elections have become more competitive and often ethnically motivated.

Free and fair elections
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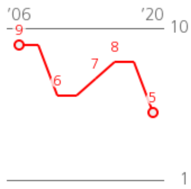

The 2017 presidential elections were disputed and irregularities reported before, during and after the voting process. The pre-election period included a flawed voter registration process and there have been reports of serious problems with voter lists, especially in rural areas. The incumbent Uhuru Kenyatta of the Jubilee Party faced Raila Odinga of the opposition National Super Alliance (NASA). President Uhuru Kenyatta was declared the winner with 54% of the vote. The opposition refused to recognize the result, alleging widespread irregularities, and claiming that Raila Odinga was robbed of victory. Observers noted problems during the electronic transmission of polling station results and the tabulation of results at county-level tallying centers. In some districts, travelling polling stations did not arrive on time and therefore some people were not able to participate in the elections.

In 2017, the Supreme Court invalidated the August 2017 presidential election due to technical and procedural flaws and deficiencies – only three days after the elections were held. The opposition leader, Raila Odinga, pulled out of the re-run and urged his supporters to boycott the elections. President Kenyatta won 98% of the votes – however, the voting turnout was only with 39%, half of the August turnout. However, Kenya’s political leaders missed a critical opportunity to ensure an inclusive and transparent election process for the October elections. Several civil society organizations challenged the conduct and results of the October 26 election in court on a variety of grounds.

Elections are more polarized, more divisive and more violent, when the main presidential candidates come from different ethnic communities such as the Kikuyu or Kalenjin (which are represented as a coalition in the Jubilee Alliance/Party) than when they come from the same community. The re-run was suspended in 25 constituencies, which are all opposition strongholds, due to security fears. There is no trust in the ability of institutions to guarantee the integrity of the electoral process. The 2017 elections were characterized by a tense political environment throughout the electoral period. The key political leaders repeatedly took steps that harmed the process, taking hardline positions, failing to seek common ground, and using inflammatory and divisive political rhetoric. There were multiple violent protests, more than 100 reported deaths, and many more injuries.

Effective power to govern

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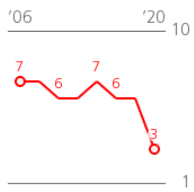

Although there are no traditional veto powers in operation, the effectiveness of governance has been substantially hampered by frictions, tensions and infighting within governments since 2003.

Political parties are said to be mere election vehicles in Kenya. When founders and funders disagree, the parties tend to disintegrate and fresh alliances are forged and new political parties formed. This explains why Kenyan political parties appear and disappear with each election cycle. Loyalty to the government is assured through giving members of respective ethnic groups priority access to land and other properties. Dissidence is dealt with using violence or the threat of it. Democratic institutions are a mere facade and decision-making de facto does not follow democratic procedures.

Corrupt, self-seeking politicians try to interfere with legislation and some key institutions (Ethics and Anti-Corruption Commission, National Land Commission, parliamentary committees). Because of its critical stand toward the NGO sector, the Kenyatta government has refused to start the implementation of the progressive Public Benefits Organizations (PBO) Act, which would allow for smooth, professional and effective administration of the large civil society sector. Instead, old legislation from the autocratic Moi era is still in force and, from time to time, used to interfere with and sabotage NGOs. Attempts to apply veto powers are not made openly.

County-level government institutions generally carry out their mandate, but there are partisan veto players active in local administration. Indeed, several types of political actors, mostly belonging to the same ethnic group as the president, have been given positions within the state apparatus that enabled them to veto the set-up of or effective operations. These political actors include the county executive or governor, factions within the county legislatures and assemblies, and political/partisan elites at the national level.

Association / assembly rights
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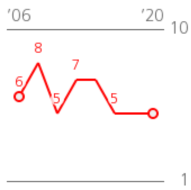

There are no legal constraints on the right of any group to assemble or associate freely. However, since the election campaign in 2013 the government has repeatedly infringed on the right of assembly, by violently dispersing peaceful civil society demonstrators outside parliament, the Independent Electoral and Boundaries Commission offices (May 2016), Kibera slums of Nairobi and other parts of the country. The excessive use of force by the police caused the death of at least two people in May 2016 and about 92 in the aftermath of the elections 2017, according to Kenya National Commission on Human Rights. Promised inquiries into the excessive use of force by the police ended with no results. After the post-election violence of 2007/08, the government instrumentalized the public quest for peace to label legitimate demonstrations as destabilizing, thereby substantially violating the constitutionally guaranteed rights to associate and assemble freely. The Kenyatta government has been using threats, intimidation and the selective application of the law to severely curtail public space. Since the beginning of the Kenyatta-Odinga cooperation in March 2018, anti-CSOs measures have somewhat subsided.

Freedom of expression
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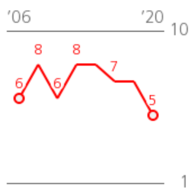

Press freedom exists in Kenya on paper and in principle. There is a substantial diversity of published opinions. However, the legal environment in which the media operates is complex. Though the 2010 constitution guarantees the freedom of the press, several laws curtail and infringe on this freedom. So far, attempts to enact draconian laws and/or amendments to existing acts have failed in court (e.g., the Parliamentary Powers & Privileges Bill 2015). However, provisions in several security-related laws (e.g., the 1967 Preservation of Public Security Act remain unadjusted to the 2010 constitution) provide wide-ranging executive powers to restrict/prevent public information provision and fine or imprison journalists. The Kenyatta government has created an atmosphere of fear and intimidation, journalists reporting on the ICC cases (2009 – 2015) and on certain corruption cases face(d) severe threats. Substantial self-censorship among journalists is one of the results. This is explained increasingly by the acquisition of stakes in media houses by politicians and their collaborators. President Kenyatta's family is said to own K24 and the People newspaper. Deputy President William Ruto is closely associated with media outlet KTN. The Nation Media Group, which has been known for many years for its independence, is owned by the Aga Khan, who controls many businesses and is keen to maintain close relations with those in power. Over the years, people close to the government have acquired stakes in it and tend to have a say in what it should report. On certain occasions, journalists have been fired or beaten up by police during investigations, and bloggers been detained for publishing information on terrorism.

3 | Rule of Law

Separation of powers

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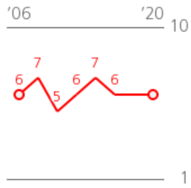

Separation of powers was not emphasized in the old constitution. During the Grand Coalition (2008–2013), the legislative and executive were strongly interlaced as more than two-thirds of parliamentarians held cabinet positions.

The 2010 constitution stresses the importance of the separation of powers. It allows for a maximum of 22 cabinet secretaries (formerly ministers) and stipulates that they must come from outside parliament. The president is required to seek parliamentary approval for his cabinet secretaries. Parliament can dismiss ministers but has not yet made use of this power. Appointments by the president to national commissions, the positions of attorney general, auditor general, budget comptroller and public prosecutor are based on nomination by special panels. Parliamentary approval is required to keep panels largely free of presidential influence, but the president plays an important role in the appointment process of these panels.

In the new constitution, powers of parliament have generally been strengthened while those of the president have been curtailed. On several occasions, the National Assembly and the lower house of parliament appeared to be directed by the executive and approved laws limiting political and civic space.

The courts competently exerted their government-controlling role by nullifying those laws. After the elections took place in Kenya in 2017, the judiciary came under attack from the legislature and the executive, both of which claimed that the judiciary was “interfering” with their work. There are efforts in parliament to introduce a constitutional amendment bill to prohibit courts from interfering with matters that are pending consideration before the parliament. Some members of parliament claim that the judiciary should desist from interfering with its activities because of the deference it owes to them.

Independent judiciary

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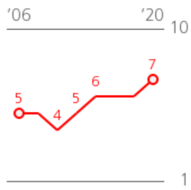

Under the guidance of Chief Justice Willy Mutunga, reforming the judiciary was initially a successful flagship project of the fundamental reform processes required by the 2010 constitution. Guided by the Justice Transformation Framework (JTF), Mutunga’s most important legacy, with its fresh vetting of all sitting judges and an expansion of court services to more locations in the country, the judiciary has experienced a remarkable recovery from its status as one of the most corrupt and least trusted institutions in Kenya.

However, during the last two years of Mutunga’s tenure the reform pace slowed down, corruption cases again upset the judiciary, as did attempts of executive interference. Under the new Chief Justice David Maraga, the reform course remained largely on track. Under the Kenyatta government, the judiciary has been subjected to several attempts to infringe on its independence and to undermine the reputation of its leading judges. But the judiciary has largely protected its integrity and independence, which is proven by several rulings that dismissed laws and amendments that would have restricted constitutionally guaranteed rights to freedom of expression.

Corruption remains the greatest threat to the independence and effectiveness of the judiciary.

Prosecution of office abuse

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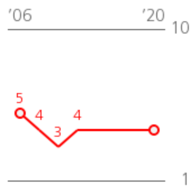

The 2010 constitution dedicates a full chapter to the issue of integrity and defines appropriate conduct for public office holders, as well as conditions for removal from office. The constitution also ascribes constitutional status to the Ethics and Anti-Corruption Commission (EACC). However, subsequent legislation, particularly the Leadership & Integrity Act 2012, does not operationalize constitutional provisions in a way that allows appropriate vetting of public officeholders and political aspirants. Anti-corruption institutions and policies, and the judicial and the political system have so far proven too weak to break the cycle of impunity. The same applies to the extra-judicial killings by the police in the name of fighting insecurity and crime. At the same time, institutional conditions have never been as advanced as they were during the period under review.

The judiciary opened a dedicated anti-corruption court in late 2016. The cooperation mechanisms between the EACC, the judiciary and the office of the director of public prosecutor have been strengthened since 2010. The EACC has suffered from weak leadership, as has the Office of the Director of Public Prosecution (DPP). With appointments of former intelligence and military personnel to key positions and with fresh executive backing under Kenyatta's leadership, an anti-corruption campaign got into swing, leading to numerous arrests and trials of high-level politicians. In political circles, it is said that the ultimate target of anti-corruption measures is Deputy President William Ruto, who, according to many insiders, has set up a comprehensive network of corrupt officials involved in graft since his appointment in 2013.

Kenyan courts are yet to deliver a single high-profile conviction, despite some prosecutions involving top government officials. Ironically, the foreign accomplices of Kenyan suspects in some of the most famous scandals have been forced to face justice elsewhere and looted funds have been recovered. For instance, a Jersey firm that traded with a former finance minister and an ex-CEO of a state corporation pleaded guilty in 2018 to four counts of laundering the proceeds of corruption. Over $3.8 million is thus expected to be recovered. Slow or reluctant to comply with the law, Kenyan authorities have not yet extradited the two to Jersey. In the chicken-gate scandal, the UK's Serious Fraud Office carried out forensic investigations that led to sanctions against British firms, like Smith and Ouzman, found guilty of paying out bribes, codenamed "chicken," to Kenyan officials to secure election-related deals. Not a single Kenyan official has been sanctioned. Suspects remain at large with some of them holding high-level offices.

Civil rights

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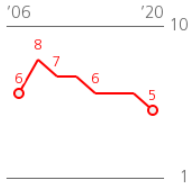

Chapter four of the new constitution contains a comprehensive bill of rights. Any citizen who feels that his or her fundamental human rights have been denied or violated has the right to initiate court proceedings.

A lack of sufficient civic education, however, means that the vast majority of the population remains unaware of these provisions. Moreover, there are structural limits to the enforcement of these rights, with most citizens lacking the financial means to institute a court case. As important as their support may be, institutions like the Federation of Women Lawyers and Kituo Cha Sheria remain limited in their outreach. However, through its decentralization process, the judiciary has established more court locations and established Court User Committees, easing access to justice from the supplier side.

Despite some progress in fostering a culture of respect for civil rights, random arrests and extra-judicial killings, illegal confinement, extortion, physical abuse and fabrication of charges by the police forces still occur on a significant scale mostly without legal consequences for the perpetrators, particularly if political interests are involved. International human rights organizations continue to decry these abuses without much impact. Women are disadvantaged in all aspects of public and civil life, particularly in rural areas.

In addition, human rights abuses have occurred as a result of the "war against terror" as security services respond to terrorist attacks with screenings of ethnic Somali and arbitrary arrests, while a number of radical clerics have been killed by the Anti-Terrorism Police Unit. Whereas the government argued that the dropping of charges against President Kenyatta and Ruto by the ICC was proof of their innocence, the ICC Office of the Prosecutor continues to cite death, bribery and intimidation of key witnesses and the non-compliance by the state in handing over requested records as insurmountable hurdles to a successful prosecution.

4 | Stability of Democratic Institutions

Performance of democratic institutions

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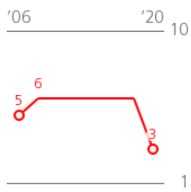

The 2010 constitution reconfigures the ensemble of democratic institutions and the relations between them by introducing a devolved democratic level of government, curtailing presidential powers, strengthening parliament and institutions, as well as establishing several independent constitutional commissions. However, other factors undermining parliament's independence and efficiency are more structural and remain in place. These include the undermining of democratic principles by personal and ethno-regional interests, the frequent realignment of political blocs as a result of political power games. The level of political polarization in conjunction with parliamentarians' susceptibility to bribes ensures that the government maintains substantial control. The new governance system, with the Senate as a second house of the National Assembly and with its elected county governors and county ward representatives taking over the provincial and district administration and local authorities, started in March 2013. The 2010 constitution precludes the abolition of the devolved system. The expected jostling for power and influence between and among the different arms of the executive and legislative is still not concluded, but the governors through their Council of Governors have emerged as the new locus of power vis-à-vis the national government. So far, they have proved fairly effective at protecting devolution against real and perceived attempts to strengthen the national government's role at the county level. However, their power is likely to overshadow and render ineffective that of the county legislative assemblies, most of which face challenges of ineptitude and corruption.

Commitment to democratic institutions

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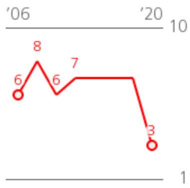


All actors accept the value of democratic institutions and rules in principle, but in practice politicians and business managers try to threaten, corrupt or manipulate them for their own interests.

The 2010 constitution provides key institutions with better protection from external influence, utilizing transparent and competitive appointment processes less dependent on the executive and accountable mainly to the legislature. However, there are no safeguards against attempts to buy influence as evidenced by various attempts to bribe members of parliament in key parliamentary committees and members of the EACC to remove names from incriminating reports.

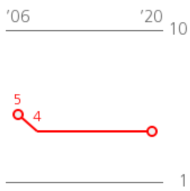
The ambivalent attitude by Kenyatta, Ruto and Odinga toward key institutions became evident during the 2017 election campaign and afterwards. While they all heavily criticized and threatened these institutions, they all accepted the various court rulings before and after the elections (including the nullification of the presidential elections), as well as the results of the Electoral Committee.

No institution holds and uses specific veto powers, but the government has deliberately failed to fundamentally reform the police service along the constitutional requirements to be able to prolong its instrumentalization for extra-legal actions, including killings.

5 | Political and Social Integration

Party system

4



Political parties continue to serve the interest of strongmen, built around ethnic loyalties and patronage rather than platforms or principles. Party politics are characterized by a high degree of polarization and volatility. Political party formations follow and reflect the ethno-regional alliances built by political leaders. Relations with interest groups are limited and at best ad hoc.

Parties do not aggregate interests that are expressed in social, cultural or economic terms. Instead, leaders use political parties to channel and re-engineer their ethno-regional interests and rally the support of their ethnic communities around them. It is only around election time that parties are vibrant and relevant when leaders need to aggregate and consolidate their political following. The party system remains unstable. Founders and funders of political parties have a lot of sway over the directions, parties take and the causes they choose to support or oppose. When founders and funders disagree, the parties tend to disintegrate and fresh alliances are forged and new political parties are formed. This explains why Kenyan political parties appear and disappear with election cycles.

The current political party dispensation is in place since the formation of major alliances before the 2013 elections, with the major development having been the merger of Kenyatta's party, The National Alliance (TNA,) with Ruto's United Republican Party (URP).

Interest groups

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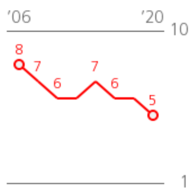
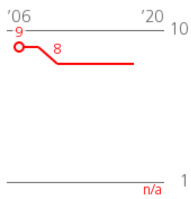


Primarily, social interests are organized along ethno-regional lines. Even organizations representing the economic interests of their members are prone to internal splits along ethnic lines. Interest organizations that could potentially use their sheer size for significant political leverage, such as the Central Organization of Trade Unions (COTU) and the Kenya National Federation of Agricultural Producers remain hampered by corruption and weak leadership. While population groups are politically important, their impact varies. Some (e.g., the Kenya Human Rights Commission (NGO), the Kenya National Commission on Human Rights (government body), or the Law Society of Kenya) have genuinely and constructively engaged with the government, their impact remains low. They are unable to address social issues for their members, let alone issues of national importance. Nonetheless, in recent years, numerous professional and interest groups (e.g., Kenya Medical Practitioners and the Pharmacists and Dentist Union) covering a variety of fields, including human rights, gender equality, business interests, fair trade and environmental protection went on strike for higher wages and better working conditions. These are mostly confined to the urban centers, and so fail to represent the interests of rural populations.

Approval of democracy

n/a



Despite the post-election violence and the persistence of corruption, support for democratic forms of government remains high, although a downward trend is visible. The preference for democracy over any other form of government has declined from 78% in 2008, to 72% in 2012, and yet further to 67% in 2016 according to the Afrobarometer (data released in 2018).

The share of Kenyans that do not consider their country a democracy or as a democracy with major problems has been significantly declining, from 47% in 2012 to 27% in 2016. Satisfaction with Kenyan democracy remains relatively stable at 47%. It needs to be stressed that the data for these favorable democracy ratings was collected prior to the polarized and problematic elections of 2017.

Social capital
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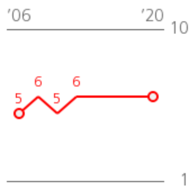


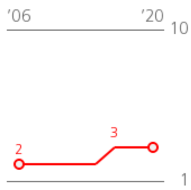
A large number of social and self-help organizations exist, although without effective division of labor. Networks are limited by financial and infrastructural constraints. Social trust often remains largely limited to family, clan or ethnic networks, while levels of interethnic mistrust remain high across much of the country. This is particularly true in areas characterized by strong communal histories of injustice and marginalization, and by histories of violence either during election cycles or as a result of other forms of insecurity such as cattle rustling. Consequently, trust within the population is higher in largely ethnically homogenous areas than at the national level or in many cosmopolitan/border areas. Informal savings are still popular throughout Kenya, especially in rural regions, which the significant expansion of bank services has not reached. Informal cooperatives and self-help groups are difficult to monitor, but they exist all over the country, especially in rural areas and informal settlements of urban centers. They play an important role in fostering a sense of communal and, in extension, national belonging.

II. Economic Transformation

6 | Level of Socioeconomic Development

Question
Score

Socioeconomic barriers
3



Kenya has the largest and most diversified economy within the East African Community (EAC). However, according to the Gini Index (2014 estimate) Kenya has a value of 0.45 and is the most unequal society in the EAC, despite having considerably improved since 1992 (0.63). This score is also corroborated by the inequality-adjusted Human Development Index (HDI). At 0.434 (2017), this is about 26% lower than the actual HDI, which at 0.59, has put Kenya for the first time at the bottom of the medium human development category. Kenya made some progress in reducing the incidence of poverty from 46.8% in 2005/06 to 29.2% of the population in 2018 (according to World Bank calculations).

However, if Kenya's lower middle-income status is applied, the rate rises to 68% (as the poverty prevalence measure goes up from $1.9 to $3.21). The overall poverty rate disguises the spatial dimension of poverty, which is much more strongly pronounced in the northeastern, eastern, coastal and western parts of the country. According to the World Bank, at the current annual poverty reduction rate of 1%, Kenya cannot meet the SDG goal of eradicating poverty by 2030.

Kenya's Gender Inequality Index is at 0.549, the worst within the EAC, and considerably below the average for medium-income countries (0.489). Kenyans generally perceive inequality in terms of unequal regional distribution rather than class.

Economic indicators		2015	2016	2017	**2018**
GDP	$ M	64007.8	69188.8	78757.4	**87908.3**
GDP growth	%	5.7	5.9	4.9	**6.3**
Inflation (CPI)	%	6.6	6.3	8.0	**4.7**
Unemployment	%	9.7	9.6	9.3	**9.3**
Foreign direct investment	% of GDP	1.0	0.6	0.9	**1.8**
Export growth	%	6.2	-2.2	-6.8	**4.0**
Import growth	%	1.2	-3.4	8.7	**2.6**
Current account balance	$ M	-4288.9	-3697.3	-5018.3	**-**
Public debt	% of GDP	51.5	54.5	55.2	**60.2**
External debt	$ M	19767.1	21693.9	26829.8	**31511.1**
Total debt service	$ M	904.1	1134.1	1586.2	**2780.8**
Net lending/borrowing	% of GDP	-8.7	-7.3	-11.0	**-**
Tax revenue	% of GDP	16.3	16.2	15.7	**-**
Government consumption	% of GDP	14.1	12.9	12.7	**12.9**
Public education spending	% of GDP	5.3	5.4	5.2	**-**
Public health spending	% of GDP	1.7	1.6	-	**-**
R&D expenditure	% of GDP	-	-	-	**-**
Military expenditure	% of GDP	1.3	1.3	1.3	**1.2**

Sources (as of December 2019): The World Bank, World Development Indicators | International Monetary Fund (IMF), World Economic Outlook | Stockholm International Peace Research Institute (SIPRI), Military Expenditure Database.

7 | Organization of the Market and Competition

Market organization

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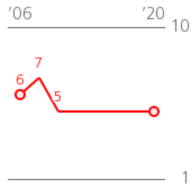

Since independence, Kenya has in theory been led by free-market principles, while in fact, it has been subject to major state interventions. Once driven by the government, the economy is now essentially propelled by the private sector as a result of the extensive privatization program since 1992.

Nevertheless, state-owned enterprises still exist beyond the traditional infrastructure sectors in areas usually more at the prerogative of the private sector (banking, wholesale & retail trading and agro-processing). Despite progress, market competition still suffers from interference by politicians and political dynasties (e.g., Kenyatta's, Moi's and Kibaki's) attempting to advance either their own business interests or to punish companies that cooperated with individual opponents or the opposition (e.g., the telecommunication company Airtel that scarcely received a government contract after they worked with the opposition, CORD, during the 2013 elections). The once-restrictive regulatory framework underwent liberalizing reforms, which eased the market entry for new actors and improved the attraction for foreign direct investment (FDI). Though not using the powers of the Price Control Act of 2011 for essential commodities to set temporary maximum prices, the government tends to put ceilings on fuel prices at times of high world-market prices and on maize flour prices in times of shortages. A broad range of regulatory reforms in the past three years has seen Kenya moving up in the World Bank Ranking Doing Business (2017 – 2019) ranking to 61 (out of 190 countries). After Rwanda, Kenya is the second highest-ranking economy in sub-Saharan Africa. Beyond this, it is at 126 out of 190 countries in the subcategory "starting a business." It takes seven procedures, 23 days and costs 24.9 % of GNI per capita to start a business, with easy access to credit and electricity, improving tax payments, property registration and protection of minority investors.

A large and still growing part of the working population is employed in the informal sector (known as the jua kali, or "under the sun" sector). Most enterprises start off in the informal sector, as they cannot afford the comparatively expensive process of registering with the government. From a policy perspective, the government treats the informal sector as part of the micro and small enterprises category, some of which are registered and form a part of the formal economy. However, structural constraints remain high (including limited access to markets, inadequate skills and technology, poor product quality, inadequate business skills, limited access to information, and the lack of an institutional framework). The Micro and Small Enterprises Development Act (of January 2013) though has considerably eased access to credit and regulates the sector for the first time, promoting it as part of the Vision 2030 strategy. The Kenyatta government is in principle committed to this approach and tries to facilitate linkages between the jua kali sector and the counties.

Competition policy

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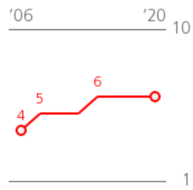

Monopolies and cartels in Kenya currently cause unnecessarily high prices for consumers, affecting staples such as maize, sugar, dairy products, energy and the telecommunications sector.

The long overdue reform of the institutional and legal framework for regulating competition was initiated under the 2010 constitution with the Competition Act, which came into force mid-2011. It has been streamlined with Vision 2030. The act creates two new agencies; the Competition Authority of Kenya (CAK) is an autonomous body that assumes the functions of the Monopolies & Price Commission, previously part of the Ministry of Finance, and the second is the Competition Tribunal, which replaces the Restrictive Trade Practices Tribunal. The CAK is vested with wide reaching powers, intended to bring together various industrial regulatory bodies and organizations responsible for consumer protection. While regulations previously allowed mergers if they fell within certain criteria (e.g., similarity, market share, size of the companies), now all applications for merger or acquisitions are vetted. By mid-2016, the CAK has completed four cases concerning restrictive trade practices, reviewed 178 mergers and also provided an advisory opinion on several cases.

It has issued various guidelines on restrictive trade practices and mergers and initiated an anti-cartel compliance program. Kenya is the third country in sub-Saharan Africa to have recently launched a market investigation into the retail sector as in other African countries. In order to strengthen competition in the telecom sector, dominated by Safaricom (40% owned by British Vodafone, 35% by the Kenyan government) with a market share of 65%, a merger of Indian owned Airtel and Telkom was taking shape in early 2019. Members of the political elite with significant business shares play a crucial role in maintaining monopolies and cartels and are likely to resist anti-cartel moves by the CAK. Particularly in the agriculture and the fuel sectors, government subsidies (maize imports, in times of shortages, and more generally fertilizers) distort markets and particularly harm small-scale farmers.

Liberalization of foreign trade

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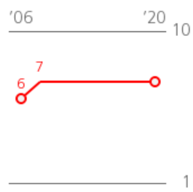

Kenya was one of the founding members of the WTO in 1994 and has signed all WTO agreements. Kenya is also a key member of the EAC, the Intergovernmental Authority on Development (IGAD), and the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC). Kenya strongly supports the new African Continental Free Trade Area and both signed and ratified the agreement in mid-2018.

It has been granted nonreciprocal trade preferences under the Cotonou Agreement with the European Union. However, following internal disagreements, the Economic Partnership Agreement (EPA) with the EU of 2014 has not entered into force. In December 2018, in agreement with the EU, Kenya and Rwanda announced that they would go ahead with implementation. So far, Kenya has been repeatedly given temporary preferential access to the EU market under the Generalized System of Preferences. Kenya is one of 39 countries covered by the U.S.-African Growth and

Opportunity Act (AGOA), which provides for quota and duty-free market access to the United States for a variety of goods until 2025.

Numerous reforms over the past 17 years include the abolition of export and import licenses, liberalization of the exchange rate, rationalization and reduction of import tariffs, abolition of export duties and account restrictions, and, more recently, strengthening the country's legal framework with more specific legislation. Recent legislation designed to boost investor confidence has implemented a modernization of petroleum, mining and energy bills, and strengthened the Kenya Investment Authority with the Insolvency Act and the Business Registration Service Act. As a result, foreign direct investment (FDI) has increased substantially since 2012, though from a low level, mainly due to robust investment from Chinese companies in the infrastructure and energy sectors.

With the establishment of the East African Customs Union in January 2005, the EAC common external tariff (CET) has become Kenya's main trade policy instrument. The judiciary's complacency and corruption in the port of Mombasa are among the reasons cited for Kenya's failure to enforce WTO anti-dumping, countervailing or safeguard measures. Non-tariff measures include costs associated with the Import Standardization Mark and fees for import declarations.

Banking system

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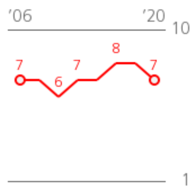

Once fragile and subject to exploitation for political gains, the banking sector has become far more robust since Kibaki took power in 2002. Kenya became one of the world's most innovative markets for mobile banking technology. It has become well differentiated and Kenya is oriented to international standards. However, insufficient state controls on the circulation of illicit cash, a lack of laws against the financing of terrorism and a long tradition of political patronage facilitates money-laundering through the vibrant financial system.

The introduction of mobile money transfers (M-Pesa) in 2007 revolutionized the economy and the money market, first connecting relatives in urban and rural areas, but also small-scale farmers to marketing boards over most of the country. In 2017, 48.67% of Kenya's GDP was processed through M-Pesa.

There are currently 40 commercial banks in Kenya, 25 of which are domestically owned with the Kenyan government holding a majority in three of them (National Bank, Consolidated Bank and Development Bank), which are all considered ineffective and have been cleared by the treasury for privatization. Fifteen banks have foreign ownership of over 50% of their shares. Eleven banks are listed at the Nairobi Stock Exchange. The large informal sector of the economy is also reflected in the large number of informal banks. The majority of Kenyans are members of a private savings and credit association (SACCO) organized by individuals or groups.

The financial sector is one of the key drivers of economic growth. Banks are supervised by the central bank of Kenya (CBK).

Since 2007, banks are legally required to share information on nonperforming loans. According to the World Bank, the share of nonperforming loans rose from 6% in 2015 to 10.1% at the end of 2017. However, the World Bank, the IMF and independent analysts consider the stability of the banking sector to be intact. Aggregate capital adequacy stood at 16.5% in 2017 (required minimum: 10.5%). The liquidity ratio sailed at 43.7% in 2017, well above the 20% minimum required by the CBK. The problem in the sector was rather access than adequate liquidity, which stemmed from the Kenyatta government's controversial cap on commercial interest rates at 4% above the CBK's benchmark rate (September 2016). Initially intended to lower the cost of credit for companies and private consumers, it led to a credit squeeze, particularly felt by small and medium-sized enterprises as banks applied tighter risk control mechanisms and opted for more profitable investments. Despite calls by the World Bank, the IMF and independent analysts to remove the cap, parliament voted in August 2018 to retain it.

8 | Monetary and fiscal stability

Monetary stability

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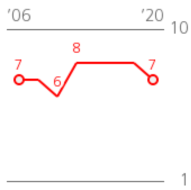

In times of political and economic turmoil, inflation rates shot up sharply (46% and 26%, respectively), but have otherwise remained relatively moderate in the single-digit range. During the Kenyatta administration, the annual average has been 6.42% (2013 – 2018), while food remained above overall inflation at 10.2% on average (2013 – 2017). In 2018, main staple foods, like maize beans and maize flour decreased by around 30%, to a level slightly above the pre-drought prices in early 2017.

The Kenyan shilling is not fixed. Following the post-election violence, the shilling lost 13% value relative to the U.S. dollar in 2008, but later bounced back (the dollar to shilling exchange rate was 1:69 in 2008 and 1:86.1 in 2013), reaching an all-time high in September 2015 (1:106.5), and remained above 1:100 until early 2019, when it dropped just slightly below that threshold.

The central bank is independent, yet subject to political interference. The Moi administration was known to print extra money in election years to finance its campaigns, which fueled inflation. The Kenyatta government has accepted increasing wage bills in the election year 2017, negatively impacting inflation (the most recent World Bank figure from 2016 is 2.9%).

Fiscal stability
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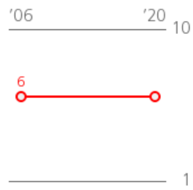

The Kenyatta government is committed to fiscal stability in principle, navigating the right balance between stabilizing the economy and stimulating growth. After budgets to boost economic growth, the government and central bank enacted anti-inflationary policies to curb the inflation rate, but have been back on the growth-promoting path. The central bank restricted monetary policies and succeeded in stemming inflationary pressure, leading to shrinking demand for credit. Higher interest rates attracted an inflow of short-term foreign exchange, with the desired effect of stabilizing the Kenyan shilling. This helped the Kenyan economy regain the trust and confidence of market forces.

The 2016 September introduction of a 4% cap on commercial interest rates led to an almost-collapsing demand for loans (2015: 18% annual growth, 2017: 4%). The budget deficits were deliberately accepted to stimulate growth mainly through infrastructure investments, averaging 7.2% between 2013 and 2018, reaching 5.8% in 2018, still above the official government target of 4.5%. The ratio between recurrent and development expenditure has been slowly but consistently improving from 80% to 17% in 2006 to around 71% on average (recurrent) to 27% (development) between 2009 and 2017, yet still 3% below the legally mandated 30%. While the government since March 2018 has pursued a fiscal consolidation course with a decrease in government expenditure by 3.7% from 27.5% of GDP in 2016/2017 to 23.9%, the following FY, the cut was realized through a 20% contraction in development expenditures, from 8% of GDP to 5.5% (FY 2017/18). External debt increased from $9.6 billion in 2012 to $19.1 billion in 2016, the equivalent of 24.1% of GDP, while domestic debt totals 21.2% of GDP. Together, they come to about 45% of GDP, well above the government's 40% target. The debt/GDP ratio has increased from an annual average of 36.6% in 2013 to an annual average of 54% under the Kenyatta administration, indicating a decrease in revenue collection and an increase in development and infrastructure spending and in turnovers caused by corruption.

In late 2018, the World Bank and the IMF considered the debt level sustainable but raised the risk of debt distress from low to moderate. The current account deficit almost halved from 10.5% of GDP in 2011 to 5.3% in July 2018, but still remained above the 4% demanded by the IMF. The continuous surplus of the financial account due to improved FDI, diaspora remittances and Eurobond yields (6.5% of GDP in June 2018, 6.1% June 2017) helps to finance the current account deficit.

9 | Private Property

Property rights

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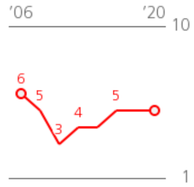

The 2010 constitution aims to lay a new foundation for property rights. Since independence, right to land has been the country's most contentious topic. Foreigners are now only permitted to lease land for a period up to 99 years. The constitution also prescribes that legislation shall specify maximum and minimum acreages of ownership and introduces options for repossessing illegally acquired land.

These provisions target the excessive land ownership and land grabbing by the ruling elite that has never been legally sanctioned. These provisions may be the real reason why large segments of the political elite either openly opposed the new constitution (Ruto) or tried to secretly undermine it (Kenyatta), as it represents a threat to their wealth. Land legislation (Land Registration Act of 2012, Community Land Act of 2012) simplifies and solidifies the previously different registers from various ministries into land registration units to be set up and maintained by the National Land Commission (NLC). A High Court in December 2016 declared all title deeds (more than 3 million) issued since 2013 null. The ministry failed to follow the mandated consultation process with the NLC. The court, however, gave the ministry first a twelve-month period and then two extensions to comply with the legal requirements to avoid a fundamental landownership crisis. A final resolution is still pending.

Owners from different ethnic groups have often been viewed as "outsiders" by those who considered themselves "indigenous" with an assumed moral right to control over that land, implying an ultimate right to dispel others.

Private enterprise

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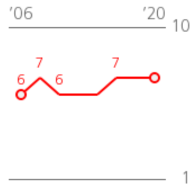

After independence, the economy was to a large extent state-driven. The privatization process started in the early 1990s and has since experienced three waves: In the third wave, the Privatization Act of 2005 was finally implemented in 2012. Initially, a presidential task force identified 75 companies for privatization, including the three government co-owned banks, but narrowed down the number to 26. Privatization is meant to pour money into the government budget and to allow it to divest from inefficient, ailing state companies. The role of parastatals in rewarding political loyalty has stood in the way of a coherent reform and privatization course.

In theory and by law, fair and equal competition between private and public enterprises is the rule, but there are regularly exceptions where state corporations are protected by either guaranteed market share, lower marketing hurdles or preferential access to government credit with lower interest rates. This distorts competition and allows inefficient, state-owned companies to operate. By the end of 2018, parastatal reform had not moved forward, despite the fact that the government had to bail out several loss-making parastatals (including Mumias Sugar, Kenya Airways and Telkom Kenya).

10 | Welfare Regime

Social safety nets
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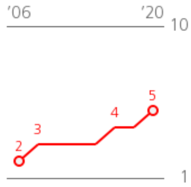

The 2010 constitution contains a comprehensive bill of rights. The state is obligated to provide social security to all those who cannot support themselves. Chapter four of the constitution also points out the right to health care, reasonable working conditions, freedom from hunger, clean and safe water and education. These rights are to be realized in a progressive way (i.e., the government should provide the appropriate conditions and framework).

Currently there are four different programs that address different vulnerable groups: The Hunger Safety Net Programme, cash transfers to orphaned and vulnerable children, to older persons and to those with severe disabilities. According to Deputy President Ruto, the government spends around €22 million annually on social protection. About 40% of the social safety net funds come from donor institutions.

Public spending on health in 2015 stood at 5.2% of GDP, still far short of the 15% benchmark set by the African Union (AU) in 2001 (Abuja Declaration). Life expectancy went up nine years, from only 53.5 in 2004 to 67.3 years in 2016.

By 2008, the HIV prevalence rate had dropped from a high 14% to a relatively low 5% and continues to remain at 4.8% in 2017 (age group 15 – 49 years). Still, Kenya has the fourth largest HIV epidemic in the world (1.6 million in 2016). There is also strong regional variation with only nine counties (out of 47) accounting for 65% of new infections in 2015, with the counties in former Nyanza hit worst. About 70% of those affected now receive treatment, a huge improvement compared to 10 years ago.

Youth constitute 35.4% of the population (according to the latest census from 2009) and are most affected by inequalities in access to education and the failure of the economy to provide sufficient jobs. Of youth, 38% neither study nor work.

Out of 16.8 million people employed, around 83% work in the informal sector, while around 16% work in the modern formal sector. Job creation over the past five years (2013 – 2017) has increased annually from around 620,000 to 787,000 in the informal sector, but has declined in the formal sector, from 134,000 in 2013 to 110,000 in 2017.

Equal opportunity
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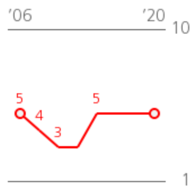


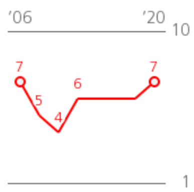
Kenya suffers from gross social differences that have a negative effect on women, youth and the disabled. These three groups are supported by a variety of NGOs and development agencies, but their situation has not markedly improved.

Non-discrimination and equality are two of the key topics of the new constitution. The constitution and the subsequent legislation contain mechanisms to ensure ethnic minority representation in public office at the county level, but in many cases, these are not implemented. Repeatedly, the Kenyan-Somali population has been the target of government anti-terror actions. Discrimination against women in relation to inheritance and unbiased access to landownership has been corrected. The constitution also states that no gender shall occupy more than two-thirds of elective positions. However, the legislature failed to enact this constitutional requirement in time for previous elections. The Supreme Court declared in December 2012 that the gender rule shall only be implemented gradually, giving the legislature time to prepare necessary provisions, which were not completed before the 2017 elections. Out of 1,883 elected positions (of which 1,445 are for county assemblies), 172 were directly elected during the general elections in 2017, 27 more than in 2013. With a share of 23%, the National Assembly does not meet the gender threshold of one-third. For the first time, women won three governorships and three seats in the Senate.

Women's literacy rate stood in 2017 at 75%, up from 30% in 1979; male literacy was 81% in 2017, up from 65% in 1979. The share of female primary education students was 49.67%, that is, almost equal.

11 | Economic Performance

Output strength
7



In September 2014, the country's economy was rebased, increasing its GDP by 25.3% and making it a middle-income country and Africa's ninth largest economy (up from 12th). Its GDP per capita declined over the last seven years to 2.3% in 2017 (5.5% in 2010). With an average annual GDP growth rate of 5.6% between 2013 and 2018, Kenya clearly outperformed sub-Saharan Africa (annual average of 3.5% between 2013 and 2018). However, it trailed slightly behind key economies of the EAC (Tanzania and Rwanda), which registered an average of 6.5% plus in the same period. GDP per capita PPP steadily increased to $3,286 in 2017 ($2,426 in 2010).

The Kenyatta government could sustain and strengthen the economic growth path of the Kibaki era where annual growth stood at an average of 4.9%. Still, the growth rate is substantially too low to achieve upper middle-income status as outlined in Kenya's economy blueprint Vision 2030 with its growth target of 10% per annum starting in 2012.

The economy has reduced its dependence on the performance of the agricultural sector. World market price fluctuations for its main export commodities (tea, coffee and horticultural products), as well as regular negative weather impacts (e.g., the prolonged drought in 2016/17), plus mismanagement of marketing boards (for sugar, maize, tea and coffee) and a general low productivity in the sector prevent the realization of the higher GDP growth rates. The drivers of economic growth have been the banking, tourism, the ICT and the agricultural sectors. After a growth ditch (4.9%) during the election year 2017 due to drought and political uncertainties, growth in public consumption and investment reflects growing confidence in the economy and at least partly offsets the effects of the fiscal consolidation and the depressed credit sector (with a plus of just 4.3%, well below the usual average of 19%, as a result of the 4% interest rate cap, see “Banking system” indicator). Investment has been particularly strong in the country’s dynamic and flourishing technology sector, which even in the election year registered a 44% investment increase compared to 2016.

Tax revenue improved from around 16% in 2002 to an annual average of 18% between 2004 and 2018. From its all-time high of 19.1% of GDP in 2014, it declined slowly but steadily (18.5% in 2015, 18.1% 2016, 17.6% 2018). Remarkably, the Kenya Revenue Authority has missed collection targets regularly since 2014. The ambitious infrastructure expansion program and unabated high levels of corruption have led to strongly increased debt levels, from 38.2% of GDP in 2012 to 57.2% in 2018, running the risk of becoming unsustainable.

FDI has been fluctuating substantially. From a high of 2.3% of GDP in 2007, it slumped due to the post-election crisis and the global economic crisis in 2008 to 0.3% of GDP. FDI only recovered significantly between 2011 and 2013 (2.7% of GDP on average by year) before falling below 1% in 2016 and 2017, although the increase in 2017 was realized against the trend in sub-Saharan Africa, where FDI fell. Inflation has fluctuated in recent years, slightly increasing to 8.0% (up from 6.6%. in 2015 and 6.3% in 2016).

12 | Sustainability

Environmental policy

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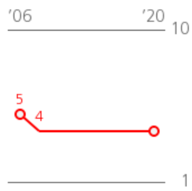

Kenya’s most pressing environmental issues include climate change, deforestation, poaching (due to increased demand for ivory and other wildlife products from China and other Asian countries), soil erosion, water mismanagement and degraded water quality. The main forces leading to resource degradation are population growth, low agricultural productivity, inadequately designed and managed settlement programs and the lack of a comprehensive land policy prior to the new constitution. The National Environment Management Authority (NEMA), founded in 2002, has a mandate to coordinate all environmental matters.

However, NEMA is hampered by a lack of capacities, persistent conflict between its mandate and previously existing laws, insufficient funds for environmental plans, and corruption. Unlike the previous version, the new constitution spells out principles, obligations and guidelines for environmental management, reflecting a strong commitment to environmental preservation and rehabilitation. Even though the legislation has been slow, the main acts are in place. Since 2010, Kenya has been developing and refining its climate change response strategy that is now based on the National Adaption Plan 2015 – 2030 (of the Paris Agreement).

On the Environmental Performance Index (EPI), Kenya lost seven places from 2016 to 2018 and is now ranked at 130 out of 180 countries.

Education policy / R&D

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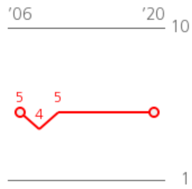

The country's adult literacy rate stood at 78% in 2015, according to UNICEF. Though still on the high end in sub-Saharan Africa, this marks a decrease from its value of 82.5% in 2000. Nevertheless, the level of education of the workforce is high and one of Kenya's assets in pursuing the goal of becoming a medium middle-income country.

Kibaki fulfilled his campaign promises of removing fees for primary education (2002) and secondary education (2007). Free primary education increased enrollment from six million to eight million within two years. The government underestimated the additional cost of this move, leading to a drop in the quality of primary education and the misallocation of education funds. In 2018, Kenyatta launched the completely free secondary education initiative, which doubled the budget for secondary education and additionally burdens the government budget at a time of severe fiscal constraints.

The government receives support through the Global Partnership for Education, which helped through targeted-support interventions to raise the performance of 4,000 primary schools in 2018, which had before performed poorly on national examinations. The rollout of the comprehensive educational reform had been postponed in December 2018, due to a lack of preparedness with regard to infrastructure and teacher qualifications. Government spending on education has oscillated between 5.2% and 5.5% between 2012 and 2018. It is expected to be higher in 2018, due to an increase in spending for secondary education.

The number of universities is increasing rapidly, with many colleges upgraded to university status. There are currently 39 universities in Kenya (16 public and 23 private). The last available figure for the government's expenditure on higher education is from 2010 when it was a meager 0.78% of GDP.

Governance

I. Level of Difficulty

Structural constraints

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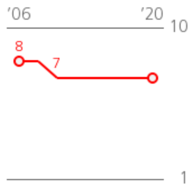

Kenya has high economic and administrative potential associated with its traditional political stability and comparatively well-educated workforce. However, the incidence of poverty remains high. Population growth has substantially decreased from 3.8% in early 1980s to 2.5% in 2017. At current growth rates, Kenya's population will be 81.2 million in 2040, up from 49.7 million in 2017.

Almost 75% of the population is below the age of 30. This puts a heavy burden on the educational system and the labor market, which are still not well interlinked, as a core problem is the low productivity of jobs, even in the formal sector. The World Bank pointed out that GDP per employed worker is lower than in many other African countries. This lack of productivity is a severe bottleneck for poverty alleviation efforts. On the positive side, huge investments in the physical infrastructure under the Kenyatta administration have significantly improved the movements of goods and personnel. However, the rate of infrastructure expansion is insufficient to cope with the implications of strong economic and population growth.

The impact of climate change, with recurrent droughts affecting the economy's core agricultural sector, puts a severe structural constraint on the country's ability to meet national food demand and general productivity needs. Land degradation and intense fighting over access to productive land between local pastoralists and farmers, further inflamed by political interests, are common in several regions of the country.

Kenya has still the fourth largest HIV epidemic in the world (1.6 million living with HIV). However, over the past decade, substantial gains in the fight against HIV have been made. About 75% of those infected receive anti-retroviral treatment. Life expectancy dropped from its highest point in the pre-HIV period of almost 60 years to just 52 years in 2001. Since then, also a result of a HIV prevention course implemented by the government, it increased remarkably to 67 years in 2016.

Civil society traditions

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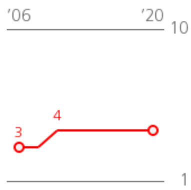

Civil society has played a crucial role in building a democratic public sphere, including the period of transition to a multiparty democracy in 1999, during the constitutional conferences of 2003 and 2004, and during the implementation of the new constitution. Lawsuits initiated by CSOs prior to the 2017 elections helped to increase transparency of the elections and the accountability of the electoral commission.

Kenya has a long history of grassroots organizations around the country, engaged in community work and opening fora for people to engage in public life. For a long time, grassroots organizations and the then overwhelmingly Nairobi-based civil society organizations (CSOs), however, have never really connected. It has only been in the last decade that a variety of CSOs have slowly proliferated in provincial and county towns. While civil society has constantly sought issue-oriented political debates and decisions, it did not prove immune to the political impact of ethnicity, as rifts and splits along ethnic lines affected the clout and coherence of civil society, particularly around the highly polarized 2007 elections.

The impact of this is still being felt. Moreover, in the run-up and aftermath of the 2013 and, to a lesser degree, the 2017 elections, there was a concerted campaign spearheaded by Jubilee supporters to demonize prominent civil society actors as part of an "evil society" and to delegitimize them as stooges of foreign donors. The mainstream Christian churches have started to regain some of the moral high ground they lost as a result of infighting and their opposition to the 2010 constitution. In times of heightened political polarization, such as during elections, ethnic considerations can supersede or compromise moral and political convictions.

Conflict intensity

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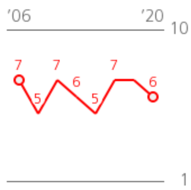

The legalization of political parties immediately brought long-standing but previously suppressed ethnopolitical cleavages to the surface. Conflicts initially took the appearance of ethnic conflicts, but their nature was less intrinsically ethnic than distributional (land, resources).

However, the prolongation of these conflicts over decades and the political elite's deliberate failure to take action has changed their character. While it plays a less significant role in normal day-to-day life, Kenyans have become more ethnically conscious and cautious in the multiparty era, as continuous mobilization along ethnic lines (especially Luo-Kikuyu and Kikuyu-Kalenjin relations) during election periods has left its impact on the self-conception of Kenyans. The manifestation of these conflicts is still strongly dependent on the political alliances the political elites are seeking to build. This has been powerfully demonstrated by the discontent over land distribution in the Rift Valley.

Unemployment and underemployment, lack of security and the rule of law underpin the proliferation of criminal gangs and semi-militias in slum areas in major towns, but also in rural parts of the former central province and the Rift Valley. They act semi-autonomously and are – particularly around election periods – hired by politicians to trump up support and to intimidate opponents. So far, they do not unfold a political relevance by themselves, but the prevailing disconnect between relatively high economic growth rate and poverty alleviation make those groups a ticking time bomb and guns for hire in times of intensified political conflicts.

In addition, many areas are troubled by resource and border conflicts that regularly become violent clashes. This includes Tana River and large swathes of northern Kenya around Laikipia and Samburu, which are troubled by retaliatory cattle raids between neighboring pastoralist communities such as the Pokot and Turkana.

Finally, religion is becoming an increasingly important fault line, as a long-standing sense of historical marginalization among the country's Muslim community translates into radicalization in the context of burgeoning religious divisions at the regional and global level.

II. Governance Performance

14 | Steering Capability

Question Score

Prioritization
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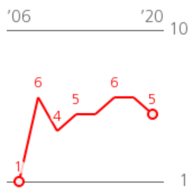

The Kibaki and Kenyatta governments demonstrated an ability to set strategic economic targets. The Vision 2030, launched in 2008, aims at transforming Kenya into a middle-income country by 2030, a goal the country has already come closer to after the rebasing of the economy. Resting on four pillars (economic, social, political and enablers, and macro), the government pursues a wide range of projects with varying links. Its aim is to achieve sustainable economic growth of 10% for more than 20 years to eradicate poverty by 2030. A key precondition is the continued rehabilitation and expansion of the country's physical infrastructure, which has seen huge investments in road, railway (Mombasa-Nairobi, opened in June 2017) and port systems and the connecting road networks (Lamu Port for the transport corridor of Ethiopia, South Sudan and Kenya) and in rural electrification. In an effort to streamline planning and cut costs, in early 2019, Kenyatta appointed the cabinet secretary of the interior and internal security, Fred Matiang'i, as chief minister (no official position) to oversee and coordinate the process. The appointment of Matiang'i, a former activist in civil society, can be seen as a sign that Kenyatta seeks to prioritize planning, implementing efficiency and addressing the widespread culture of leniency toward corruption. Until recently, little or no progress had been made with regard to land reforms and the fight against corruption. The government's long-term strategic aims do not include a transformation toward democracy based on the rule of law.

Within the executive, three groups can be distinguished with different interests. The business interests of the groups often converge. Kenyatta's new cooperation with Odinga and his interest in successfully fighting corruption and leaving the nation more united than it was have led to the establishment of a third group, which consists of technocratic-oriented personnel, some of whom have a past or current security background. There is a fourth group outside the executive that clusters around the loser in the 2013 and 2017 presidential elections, Odinga, who is seen by many in diplomatic circles as a more genuine reformer. In general, he has actively supported the reform agenda, while opposing specific reforms that would undermine his interests (for example, when he was prime minister colluding with Kibaki in delaying the appointment of the head of the Anti-Corruption Commission and diluting the Leadership and Integrity Act).

The more genuine reform drivers are civil society organizations, a number of backbench members of parliament, and the judiciary. However, lack of coordination between these groups limits their impact.

Implementation

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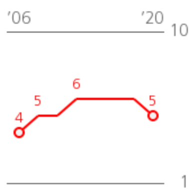

Both Kibaki administrations and the current Kenyatta government have shown determination in putting the economy back on course and preparing it for a comprehensive transformation process toward industrialization and expansion of the service sector. They have also shown a degree of commitment to fighting poverty. Despite early promises of wide-ranging reforms, immediate interests of key political players act as stumbling blocks, leading to mixed results. The economy has shown remarkable gains, which would have come closer to the envisaged 10% annual growth rate (Agenda 2030) with no or substantially lower levels of corruption. Economic policies and legislation broadly followed the rationale of a market economy, until early 2018, however, with great leniency with regard to corruption. When Kenyatta in 2018 announced that no new government projects would be initiated before the bulk of the huge number of stalled or unfinished projects was completed, it was the first time that a sitting president reacted to mounting evidence presented in each and every annual report by the auditor general about the waste and loss of public funds through delays and abandoning ongoing projects.

The Kenyatta government has been partly successful trying to undermine the spirit and letter of the constitution with regard to human and political rights, as well as civil liberties and press freedom.

The reform of the judiciary is a major milestone, though the sole government input was the appointment of the reform-minded Chief Justice Mutunga, who then shaped the reform. The police reform has been deliberately delayed in order to use the police more easily to squash protests. Problematic appointment processes have initially marred and undermined the working capacity of most constitutional commissions and institutions, but some have achieved a turnaround to become more credible and effective. It seems as if the government does not intend to implement political reform measures that might initiate a transformation toward democracy based on the rule of law.

Policy learning

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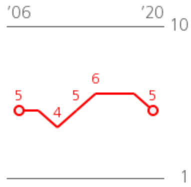

The 2010 constitution is the result of a long and hard learning process. Devolution is a direct result of the failure of the central state to guarantee a broadly equal regional distribution of resources, services and government jobs. The constitution addresses most of the issues listed under Agenda 4 of the National Accord signed in 2008 after the disputed 2007 election (long-term solutions to structural triggers of the post-election crisis). It shows a clear, positive learning curve, with its promise to curtail presidential powers, strengthen parliament and the judiciary, create a comprehensive and progressive bill of rights, and ensure a more equitable gender balance throughout society. However, the vested interests of members of the executive and legislature resulted in a partial undermining of the constitution through legislation and in renewed autocratic tendencies, partially offsetting gains in policy learning.

Moreover, there appears to be insufficient learning in national security institutions as the victimization of Kenyan-Somali and the Muslim communities contributes to the further radicalization of some members of the country's Muslim population. The recent terror attack on Nairobi's Dusit D2 Hotel provided evidence of the increasing threat of Kenya's homegrown terror. Most of the attackers were Kenyan-born terrorists and the suicide bomber who was one of the attackers was brought up in Mombasa.

Parliament has in its various committee stages continuously welcomed and to a certain degree used the expertise of civil society and specialized NGOs and companies. By early 2018, the government realized that its debt-induced economy expansion strategy is no longer viable.

15 | Resource Efficiency

Efficient use of assets

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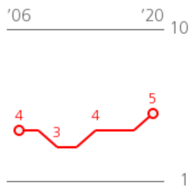

Kenya is in the middle of a severe resource crisis. Debts and the wage bill have reached an almost-unsustainable level and the government is running a budget deficit it can hardly finance.

The Kenyatta administration financed its comprehensive infrastructure expansion program through national and international loans, which by the end of 2018 reached a level of 57% of GDP, about 20% above the level the IMF considers sustainable. Government financing is between 20% to 30% of its budget. In 2018, the cabinet secretary's budget was missing about 25% of the funds needed to cover budgeted expenses. The government's fiscal consolidation course since March 2018 is based on cutting back on development expenditures, instead of reducing the wage bill and trimming recurrent expenditures, thereby reversing previous gains when the ratio between development and recurrent expenditures had improved from 17% to 80% (2006) and from 27% to 71% (2017).

Cuts in this field undermine growth perspectives, as well as Kenya's development. This also indicates inefficient use of contracting financial resources. Informed by the annual auditor general’s report, there is lively public debate in Kenya about more efficient cost-cutting through curbing the allowances and salaries of governors, ministers, members of parliament and members of the county assembly (MCAs) and trimming certain overstaffed administration units, thus decreasing expenditures in salaries, remunerations and administrative costs (62% of total expenditures in FY 2017/18). In order to finance the ballooning wage bill, a large number of counties have resorted to domestic commercial lending with higher interest rates than international markets.

While there was little transparency in previous government budgets, the Public Finance Management Act of 2012 fundamentally altered the budgeting process, assigning a greater role to national and county assemblies and the public. The latter’s participation in budget planning at the county level is, however, still significantly hampered by a general lack of knowledge and limited public budget literacy.

Policy coordination
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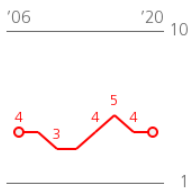

Typical for a neo-patrimonial system, various coordination styles prevail. The hierarchic-bureaucratic approach officially dominates but is often undercut by informal networks and the personalization of functional relations. The tension level within the Kenyatta government is lower than in previous governments and integrated planning is more feasible. Efficiency, coordination and the prioritization of policies and goals suffer less in the Kenyatta government. The tendency to appoint members of one’s own ethnic community to state-owned companies, civil service and public institutions increased during Kibaki’s second tenure and continues under Kenyatta with overrepresentation of Kenyatta’s Kikuyu community and a broadly adequate share of the other four major communities (Kalenjin, Luhya, Luo, Kamba) in the administration and parastatals.

A new need for effective coordination arose through the devolution of government structures. The Ministry of Devolution & National Planning has the mandate to coordinate county and national government action while the Council of Governors is both a horizontal policy coordination body and an interest group. The former provincial administration was remodeled and integrated into the new decentralized governance structure as the central government’s representation at the county level. Conflicts revolve around the issue of county security, which remains a national government function under the county commissioner with no formal role played by the governor.

With the set-up of the National Development Implementation and Communication Cabinet Committee under Cabinet Secretary Matiang’i as chief minister coordinating and supervising all national government-run projects (January 2019), the Kenyatta administration acknowledged the profound lack of horizontal and vertical coordination and linkages of its projects throughout the country.

Anti-corruption policy
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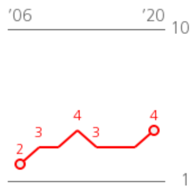

Attempts by the government to fight corruption have merely been superficial public relation exercises to calm and comfort the public. Some individuals, generally low-level perpetrators, were brought to trial, but have been exceptions. No high-ranking politician has been sentenced to prison so far over the country’s major financial scandals. Cases where ministers under investigation step aside or resign are regarded as signs of progress, though investigations are never concluded or brought to trial. Instead, allegations or investigations are often denounced.

Even though Kenyatta re-engineered the fight against corruption in March 2018 by strengthening key institutions, so far, he has failed to effectively combat corruption. In late 2018, Twalib Abdallah Mbarak was appointed CEO of the toothless Ethics and Anti-Corruption Commission/EACC. The inception of the Corruptions and Economic Crimes Court in late 2016 was an earlier positive step toward creating capacity in the relevant institutions so that they might become effective. A new earnestness regarding recovering assets lost through corruption became apparent when three million GBP were confiscated and remitted to Kenya in December 2018 as part of agreements the government signed with UK, Switzerland and Jersey. Though too early to judge whether the new fight against corruption will have a significant impact, it appears that for the first time in the county’s history backing from the executive is substantial.

The new constitution places great emphasis on integrity; public officers under investigation must resign until they are cleared. The rules for politicians, however, are more ambiguous. The Leadership and Integrity Act, which was meant to operationalize these constitutional principles, was watered down by parliament.

16 | Consensus-Building

Consensus on goals
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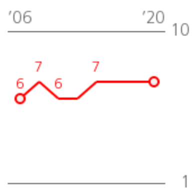

Kenyan politicians, the business community, civil society, Christian churches and mainstream Muslim groups, as well as the vast majority of Kenyan citizens, agree in principle on democratic norms. Even though no leading Kenyan politician openly doubts the merits of democratic electoral contests and basic human rights, the last elections demonstrated how difficult it is for candidates to concede defeat. This has raised major doubts on the internalization of basic democratic norms. The significance of ethnicity and personalities in Kenyan politics plus the corresponding strong ethno-regional polarization makes any consensus-building difficult.

The aforementioned groups as well as the vast majority of Kenyan citizens agree in principle on the need for development and the importance of a free-market economy. There is also a clear consensus about the importance of education in ensuring socially upward mobility and a place for individuals within such a society. This is embedded in a general consensus on the country’s direction and is formalized in the government’s Vision 2030, by which Kenya aims to become an industrialized middle-income country. However, there are often irreconcilable differences with respect to translating these principles into practice. This includes ideological differences (i.e., in preference of growth with trickle down or growth fueled by redistribution) and practical differences as to which development projects should focus where and why, and who the principal beneficiaries should be. Currently, this has become highly visible in the implementation of the constitution, as it affects vested interests of the old and current elites. Therefore, implementation and application are a contested field in which elites attempt to undermine and soften constitutional provisions through the legislative process and the application of those laws. Many political and administrative positions are designed to target the well-being of specific ethnic groups at the expense of others, which further hampers attempts at consensus-building.

Anti-democratic actors

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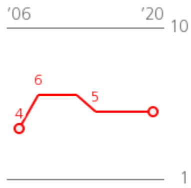

There is no political force openly opposed to democracy and democratic reform per se. However, self-interested individuals attempt to sabotage democratic policies if they believe their interests are threatened. Odinga has been at the forefront of democratic reforms since the 1980s, but on several occasions proved opportunistic, when he cooperated with forces against reforms (in 2007 with Ruto as a partner and in 2017 with dubious business tycoon Jimmy Wanjigi as a financial supporter) and status-quo politicians (Kalonzo Musyoka in 2013 and 2017, Musalia Mudavadi in 2007 and 2017). All of those mentioned are neo-patrimonial politicians. Fresh political actors with regional or national weight who want to break away from the clientelist nature of Kenyan politics are nowhere in sight. Such attempts have been unsuccessful.

Whereas the Kenyatta administration (2013 – 2017) clearly sailed on a hardline anti-reform agenda, Kenyatta himself appears less confrontational in his stand against civil society, the judiciary and the media in the first 17 months of his final tenure. This has led to a new informal alliance with Odinga, and the relative loss of weight, leverage and influence of once all-powerful Deputy President Ruto, the most important anti-reform actor. Despite several attempts to strengthen the national government at the expense of the county governments, attempts at re-centralization, as seen elsewhere in Africa, have not occurred and are unlikely to be launched.

Cleavage / conflict management

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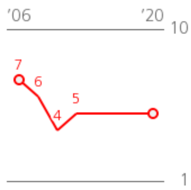
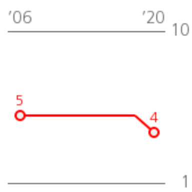


Kenya remains deeply divided along ethnic and to a lesser extent religious lines. Political leaders of all major groups continue to organize interests along ethnic lines. They transform personal power struggles into conflicts between ethnic communities over access to resources and thereby politicize, engineer and exploit differences between ethnic groups. In times of decreased polarization, politicians are disinterested in resolving conflicts arising from the exploitation of ethnicity, preferring to keep them simmering for exploitation in the future. This is particularly evident in the use of land conflicts in the Rift Valley between the Kalenjin and the Kikuyu. Neither side has shown an interest in substantially resolving the conflict, for which windows of opportunity existed between the violent ethnic clashes in the area during the 1994 and the 2007 elections, and since 2008. In 2013, Kenyatta and Ruto formed an alliance of convenience and won the 2013 and the 2017 elections with combatting the ICC charges as the initially unifying factor. The control of national power has kept the alliance and local hawks (particularly in the Rift Valley) in both camps in check, but Ruto is strongly resisted as Kenyatta's successor in 2022 by large parts of the Kikuyu community. As the actual causes of the 2008 conflict remained untouched, the land control conflict in the Rift Valley in particular could be easily re-engineered, should Ruto not become the alliance's presidential candidate in 2022.

Religious cleavages are not as pronounced as ethno-regional cleavages but have increased within the past decade, partly due to growing radicalization among Muslims at the coast who feel marginalized by the central state, and partly because of a neo-pentecostalization of Christianity and specific opposition to Khadi courts, which are recognized by the constitution. The war against terrorism and Kenya's military intervention in Somalia (since 2011) to stop al-Shabaab attacks in Kenya have also contributed to these tensions, particularly after several of those attacks in Nairobi and other parts of the country killed more than 400 people and injured more than 1,000 between 2011 and early 2019. The weak and non-conceptual counter-terrorism strategy of the Kenyatta government has further aggravated tensions.

Civil society participation

4



Traditionally, civil society has been opposed to the government, playing a watchdog role. After the 2007 and 2013 elections, civil society organizations attacked the government and parliament for their lackluster fight against corruption, the continued impunity enjoyed by perpetrators of past crimes, the undermining of the 2010 constitution through watered down legislation, the appointment of non-credible heads to crucial commissions, and attempts to sabotage ICC proceedings. At the same time, the civil society sector has become more diversified and specialized in a broad range of fields that government and parliament are utilizing through various channels, including parliamentary committees. This applies to issues not directly related to questions of power, corruption and human rights. Political decision makers do not seek dialog on these important issues, and in most cases simply ignore civil society's recommendations.

Overall, the impact of civil society has decreased over the past decade, and it is now much less capable of setting or even strongly influencing the political agenda. The Kenyatta government sees parts of Kenya's advocacy CSOs as responsible for their ICC trials, as several provided key information and witness testimonies to the ICC prosecutor. The government has been on a course to curtail CSO activities and has been relatively successful at casting them as part of an "evil society" and as stooges of Western donors. This rhetoric is periodically refreshed, particularly when the government fears scrutiny, as in election times. However, through court injunctions, CSOs were instrumental in increasing transparency and accountability in the electoral process prior to the 2017 elections. Without those key achievements, the Supreme Court may have had a greater challenge to prove the electoral commission's failures in the resulting aggregation process.

Reconciliation
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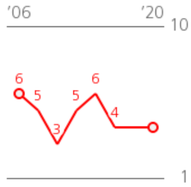

There have long been calls for some sort of mechanism to deal with past crimes, and a campaign of reconciliation. Perpetrators of the ethnic clashes of 2008, which led to the deaths of more than 1,000 people and forced hundreds of thousands of Kenyans to flee their homes, have never been prosecuted. The charges against Kenyatta and Ruto as supposedly the main drivers of the attacks in the Rift Valley were dropped by the ICC.

Despite severe internal fighting and shortcomings, the report on past crimes not only names many of those responsible for past crimes and those who benefited from them, it also contains detailed recommendations on how these crimes should be addressed by the government, stakeholders and society. However, when it was handed to newly elected President Kenyatta, the momentum for justice and truth had already lapsed and a fresh restoration mood had set in. As the report implicates large numbers of the current political elite in past crimes, it has been untouched and is likely to remain that way as long as a non-reform government like the Kenyatta one is in power.

Many Kenyans reject providing amnesty to perpetrators. To date, none of those responsible for the major corruption scandals, political assassinations or ethnic clashes have been sentenced. The government has never addressed past injustices, despite its stated commitment to do so. Resettlement of internally displaced persons that favored the Kikuyu have exacerbated grievances and ethnic divisions. The National Cohesion and Integration Commission, which was established under the National Accord in September 2009 with a mandate to address and reduce discrimination against individual ethnic groups, has sued a handful of politicians for hate speech during campaign times. It also conducts country-wide training and workshops for local political stakeholders or CSOs on conflict prevention. However, the commission has been criticized for a failure to clearly and decisively censure hate speech and to use its wide-ranging mandate to initiate local reconciliation processes.

Many politicians prefer to let these differences serve their current interests. However, unaddressed historical injustices and ethnic differences are likely to be the drivers of future conflicts.

17 | International Cooperation

Effective use of support
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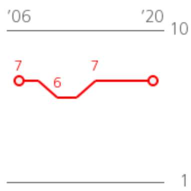

Kenya has continuously reduced its aid dependence. From an all-time high of 132% of GDP in 1993, it reduced its debt levels to an all-time low of 21% in 2008. Since then it has been gradually rising to 30.5% in 2015, only to drop to 27% again by the end of 2018. Between 2000 and 2017, Kenya accumulated a debt of about $1 billion to China (making it China’s third-largest African debtor), which replaced Japan as the major bilateral lender. The United States remains the largest donor. The biggest share of bilateral Official Development Assistance (ODA) flows into the social service and infrastructure and the health and population sectors. The former donor darling sector, education, now only receives between 3% and 7% of total bilateral ODA as a consequence of past gross misappropriations of funds.

With Vision 2030, the country has a roadmap for its economic, social and political development in which donor support is integrated. The implementation of Vision 2030, however, lacks timely government budget allocation, causing procurement delays as well as bottlenecks in absorbing donor funds.

Depending on their primary interest, past donors have arrived at different conclusions regarding the government's reform performance. However, the United Kingdom and the United States remain interested in the government's cooperation in the anti-terror fight and generally in counterbalancing the growing influence and leverage of China. The World Bank and the IMF have concentrated on the institutional reforms in the economy and expressed positive views on the government's performance in the last few years. Both institutions do not deny the existence of corruption but fail to highlight or to debate its structural roots and its negative impact on economic growth and poverty alleviation. The World Bank – with a $5.5 billion portfolio – is running 27 national and six regional projects in eight different sectors (transport, devolution, energy, water, urban, health, public sector management and social protection) and is still critical in upholding key aspects of public service delivery. The government generally faces severe problems in utilizing and absorbing allocated budget lines. This also extends to international financial assistance.

Credibility

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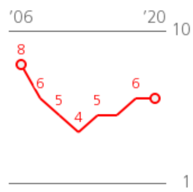

Kenya's international reputation as a reliable partner suffered under previous administrations. Under these administrations, Kenya has tried successfully to solicit support from other African governments in their efforts to undermine the credibility of the ICC at a time when Kenyatta and Ruto were facing charges and eventually trial before the ICC for their roles in 2008's post-election violence. The relationship with main Western governments became severely strained as they were initially clearly backing the ICC trials. Since the cases against both have been dismissed, the Kenyatta government has been gradually moving back to a more middle ground course toward the EU and the U.S. government, which have been just as eager to drop their initial reservations. In addition to these shows in the main theater, Kenya has remained an active member of many international organizations and sought – though unsuccessfully – to obtain leadership positions in WTO and the African Union.

Kenya's envoy to the United Nations has been instrumental in developing and ensuring a diplomatic breakthrough for the new Sustainable Development Goals (SDGs) in 2015 and received substantial praise for his role. Kenya uses cooperation with Global NDC Implementation Partners (GNI+) to implement its national determined contribution (NDC) to the Paris Agreement on climate change and appears committed to fulfilling its obligations under the agreement.

Economically, the country keeps receiving international recognition for its steps toward economic transformation. IMF and World Bank see the country on the right track to strengthening and broadening its economic growth perspectives by debt financed huge investments into the country's infrastructure, although the IMF has several times stressed that the country's debts run the risk of becoming unsustainable.

Regional cooperation
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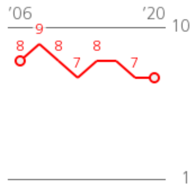

Kenya is a member of all relevant regional organizations. In the latest African Regional Integration Index from 2016, Kenya was ranked as top performer within the EAC, COMESA and IGAD, with the EAC being assessed as the best performing regional integration mechanism in Africa. This comes despite open conflict within the EAC over the signing of the Economic Partnership Agreement with the European Union. While Tanzania and Uganda refused it on grounds that it makes their economies more vulnerable to cheap European imports, Kenya (and Rwanda) signed it in 2016 and decided in December 2018 to move ahead with its implementation, despite the internal EAC disagreements.

To be granted duty-free access to the European market, Kenya as a middle-income country needs the agreement, in contrast to all other EAC members, which, as low-income countries, already enjoy access. EAC integration has slowed down, as the member states fail to meet their financial obligations (in 2018, Kenya, for one, did not pay 80% of its dues to the EAC), do not abandon tariff and non-tariff barriers, and pursue bilateral projects at the expense of other members (Uganda's backtracking on the construction of a major oil pipeline to Kenya in favor of Tanzania). Intra-country investments and intra-community trade have consequently diminished in recent years.

For decades, Kenya has been considered a constructive, mainly neutral force and arbitrator to seeking solutions for the many crises that have affected the Horn of Africa and the wider east African region. After initial blunders by Kenyatta, who took sides in the South Sudanese peace process in favor of President Kiir (2015/16), Kenya appears to have reasserted itself as a constructive force through helping to broker a new peace agreement in July 2018.

After al-Shabaab insurgencies, Kenya unilaterally intervened militarily into Somalia. Its forces later became integrated into the African Union Mission in Somalia (ANISOM) that has yet to defeat al-Shabaab. The government has been backed by other African countries and the African Union (AU) in its various attempts to defer the ICC trials.

Strategic Outlook

In the upcoming years, Kenya will face six principal challenges. Their management will determine whether and how political stability and economic growth will be sustained, and whether the latter will start to address deep-rooted inequalities.

First, the Kenyatta succession is key and also related to the question of national integration. In the run-up to the 2022 elections, it will become clear whether Kenyatta honors his initial promise to support his deputy, William Ruto, to become his successor. Ruto in the past has been able to fight off any challenges to his supremacy among the Kalenjin and is still likely to hold on to it, even if Kenyatta throws his support behind Gideon Moi or a figure yet to emerge. As 2022 approaches, the Kikuyu will eventually have to decide which of the two evils is the lesser one for them – a Ruto presidency or cooperation with Odinga, who may be willing to settle for the position of prime minister. Closely connected to the first question is the issue of national integration. Only two communities (Kikuyu, Kalenjin) have run the government since independence and this has led to a sense of alienation among large segments of the population in the west, east and along the coast.

Second, concerns over security are heightened by a burgeoning youth population and difficulties with absorbing an increasingly educated workforce into formal employment. Thus, youth constitutes over a third of the population and young people are most affected by inequalities in access to education and the failure of the economy to provide sufficient jobs. The political and social dangers have been identified and a number of government and donor programs address youth unemployment from various angles.

Third, devolution appears to be largely on track due to its high popularity among the country's citizens, leading to strong pressure on the governors to protect devolution against national government's attempts to undermine it. The fact that some historically marginalized counties are beginning to experience improved health services and more responsive local administration is also a success. However, the opening up of new political arenas at the local level is clearly a threat to effective planning and implementation, which has led to unnecessary duplication and the localization of corruption, as well as increasing ethnic tension and conflict in some areas.

Fourth, corruption remains deeply entrenched in the country's political culture. Recently, grand-scale corruption reached a new peak and has been a source of burgeoning public frustration and a barrier to higher levels of economic growth and development. The current, new momentum in fighting corruption still needs to prove its effectiveness, seriousness and impact on clientelist and business networks, but it appears to be the most serious effort at undermining corruption since the early days of Kibaki's presidency.

Fifth, economically, it will be essential to regain control over Kenya's spiraling debt (57% of GDP in 2018) without suffocating economic expansion through an undoubtedly essential fiscal consolidation course. The government needs to shift directions by trimming the bloated public service sector, rather than cutting back on the budget's development share, as it did recently. Also essential will be the eventual removal of the cap on interest rates (4% maximum above the CBK's base rate), which requires an amendment to the respective act. In the medium term, the World Bank expects solid robust growth rates at around 6%, which are however too low to achieve the SDG of poverty alleviation. Also, problematic is the fact that the World Bank rests its growth assumption, among other criteria, on recovery and strengthening in the agricultural sector and does not sufficiently take into consideration the sector's vulnerability to external shocks (droughts, floods, fluctuating world market prices).

Sixth, regionally, strategic cooperation with neighboring countries is likely to boost Kenya's economic prospects. Cooperating with countries like Ethiopia and Rwanda is likely to keep Kenya's leadership glued to issues that are likely to spur economic growth, for instance, infrastructure development that can open up large areas that have hitherto been neglected economically. A good example is the Moyale Road that has opened up the common borders and immediate areas along the border that had been starved of economic development.