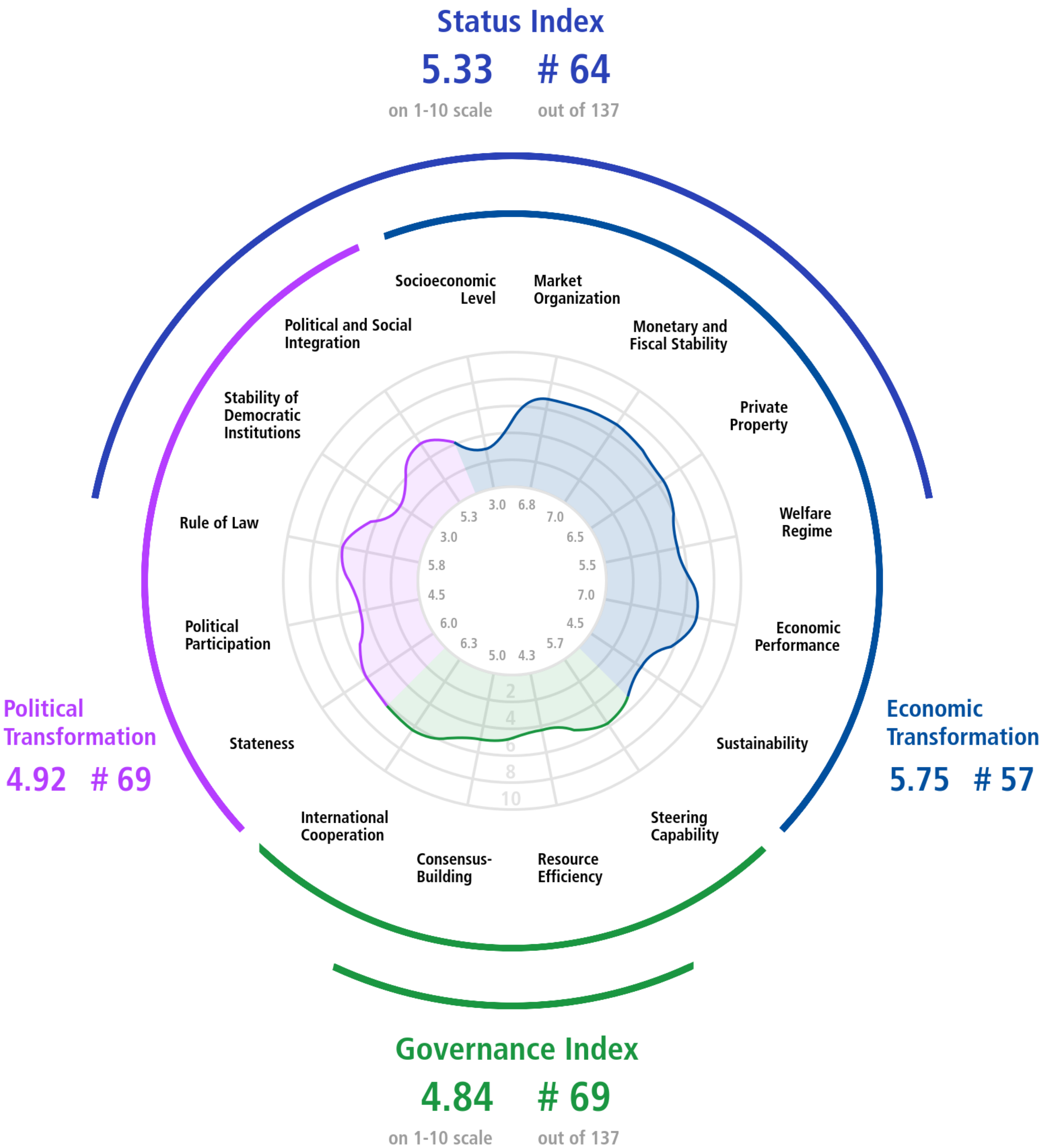
BTI 2022 Country Report

Kenya



This report is part of the **Bertelsmann Stiftung's Transformation Index (BTI) 2022**. It covers the period from February 1, 2019 to January 31, 2021. 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	**53.8**	HDI	**0.601**	GDP p.c., PPP	$	**4452**
Pop. growth[1]	% p.a.	**2.3**	HDI rank of 189	**143**	Gini Index		**40.8**
Life expectancy	years	**66.7**	UN Education Index	**0.534**	Poverty[3]	%	**66.5**
Urban population	%	**28.0**	Gender inequality[2]	**0.518**	Aid per capita	$	**61.8**

Sources (as of December 2021): The World Bank, World Development Indicators 2021 | UNDP, Human Development Report 2020. 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

The COVID-19 pandemic has devastated Kenya during a sensitive political period as it prepares to hold a general election in 2022 and a constitutional review referendum in 2021 to approve reforms proposed under the Building Bridges Initiative. The progress made in the fight against poverty over the last few decades is being steadily eroded by the pandemic, at a time when the country is dealing with a large debt burden and spiraling corruption, both of which divert public funds away from consolidating progress in poverty reduction.

Kenya is among the top 10 largest economies by GDP in sub-Saharan Africa. With a GDP of $109bn, the country is the largest economy in eastern Africa, more or less equal to the economies of Tanzania and Uganda combined. The country rose from low to middle-income status in 2014 and according to World Bank figures, poverty decreased between 2005 and 2019 from 46.8% to 33.4%, with 4.5 million people considered to live below the national poverty line. Despite the economic downturn attributed to the COVID-19 pandemic and the projected lack of development assistance and debt relief support from the international community, Kenya's poverty rate is projected to remain largely stable, with a minimal decline from 33.8% in 2020 to 33.2% in 2021.

The pandemic has exposed the internal challenges in the country's health sector, weakened by years of neglect and corruption. To date, like elsewhere in Africa, the impact of the COVID-19 pandemic in Kenya has not been as severe as in Europe and the United States. The strict lockdown measures implemented between March and June 2020 and again in March 2021, which helped to contain the spread of the virus, demonstrated a high level of state responsiveness and pointed to how much could be achieved if all the country's challenges would be met with the same level of resolve and political will.

The onset of the second wave however, demonstrated the nonchalant and business as usual approach typical of the country, which explains poor policy implementation and weak responses to other national epidemics like corruption and the abuse of public office. This relapse saw a resurgence of the COVID-19 pandemic in Kenya in early 2021.

The adverse impacts of the lockdown measures included human rights abuses, rising domestic violence, unprecedented disruption to education and an economic crisis that was particularly acute for the urban population due to massive job losses. With weak safety nets and reduced access for vulnerable families to special government programs, the impact of the pandemic will be far-reaching. This is partly due to fiscal constraints. The country implemented a COVID-19 response plan worth 0.8% of Gross Domestic Product (GDP) in 2020, including substantially reducing revenue by more than 1.4% of GDP in 2020, off-setting expenditure cuts by 1% of GDP and taking on more public debt. Kenya obtained $788 million in loans from the International Monetary Fund (IMF) and the World Bank and sought a second loan from the IMF in late 2020. This multilateral debt adds to Kenya's existing debt burden from the domestic and international financial markets, and from bilateral players like China. Together this increases the prospects of a credit risk downgrade that would make it more difficult for the country to refinance its debts in the future.

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).

In March 2018, Kenyatta and Odinga agreed to work together in a rapprochement dubbed the handshake. The collaboration between the two leaders has led to a fresh initiative to review the country's constitution under the Building Bridges Initiative (BBI) for a peaceful co-existence of the Nation. Kenyatta's deputy William Ruto's allies are opposed to the process and the Deputy President finds himself caught up between a rock and hard place where he can neither openly oppose the initiative being fronted by a government that he is still serving nor openly support what many see as an initiative aimed at elbowing him out of the succession queue.

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

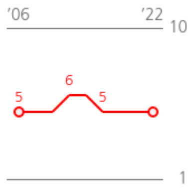
I. Political Transformation

1 | Stateness

Question Score

Monopoly on the use of force

5



The state has, in principle, a monopoly on the use of force, but this 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 their low population densities, state and police presence is low and the ability and will to maintain law and order is minimal. Kenya's 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 (Westgate Shopping Mall in Nairobi in 2013, University of Garissa in 2015, and Dusit Hotel in Nairobi, 2019).

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. In rural areas, the police have failed to curtail armed banditry.

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 allege that refugee camps, especially those close to the common border with Somalia, are hiding and breeding grounds for al-Shabaab terrorists. This is what drives the Kenya government's attempts to close these camps, culminating in the March 2021 announcement that it had decided to close the Dadaab (northeast) and Kakuma (northwest) camps. The decision, after several announcements of intention mitigated by international intervention, followed the opening of the Somali-Kenya border dispute hearing before the International Court of Justice.

The key threat to the Kenyan government's monopoly over using force remains the Islamist militant group Al-Shabaab, which has stated intent and demonstrated occasional capacity to attack state installations and foreign interests, especially in

Nairobi and Mombasa. Al-Shabaab attacks that target police and military patrols and installations are most frequent in Mandera, Wajir and Garissa counties along the Somali border. The terrorist group's latest high-profile attack was in January 2020, in southeastern Kenya, where it targeted military and telecommunications at a joint U.S.-Kenyan military airfield in Lamu County.

State identity

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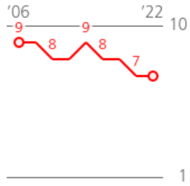

Since independence, more or less all major groups in society have respected the Kenyan state as legitimate. However, strong centralization led to complaints from various ethnic, religious and nomadic groups regarding real or perceived marginalization. In reaction to those complaints and in recognition 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 was introduced in the financial year 2017/18. Overall, counties have experienced improvements in health care, road networks and government services. This resulted in a somewhat higher 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. 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.

Kenya has over the last three years taken measures to address statelessness by granting citizenship to minority groups originally from other countries. However, there are thousands of stateless persons of Galjael, Burundian, Congolese, Indian and Rwandan descent. Other groups that remain at risk of statelessness are Nubians and Kenyan Somalis whose access to Kenyan identification documents is difficult.

No interference of religious dogmas

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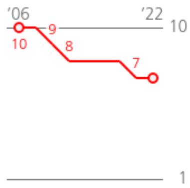

Since independence, religious dogmas have not interfered with the state's legitimacy. There were close relations between the Anglican, Catholic, African Inland and Pentecostal churches and the Kenyatta, Moi and Kibaki regimes. That influence waned over the years and, by 2010, representatives of these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

Although the constitution does not permit religious discrimination, it protects religious freedom to practice any religion or belief through worship, teaching, or observance and to debate religious questions. The constitution also recognizes special kadhi courts that can adjudicate certain types of civil cases based on Islamic law. This is a point that undermined unity among religious institutions during their campaign against the constitution. While Muslims supported the constitution for the inclusion of the kadhi courts, Christians and other religious organizations rejected it as discrimination in favor of one religion.

A U.S.-based anti-persecution watchdog, Open Doors, has listed Kenya among countries where it is difficult to be Christian, citing “spreading” persecution of Christians, especially in the predominantly Muslim northeastern and coastal regions. However, inter-religious NGOs and political leaders have said religious tensions have not been as high as in previous years, citing extensive interfaith efforts to build peace between communities. Community-level religious leaders came together to learn about each other’s faiths. Strengthened religious ties were illustrated when Muslim, Catholic, Anglican, Pentecostal, and other religious leaders jointly condemned the January 15, 2020, al-Shabaab attack at the Dusit D2 hotel in Nairobi that left 21 dead.

Basic administration
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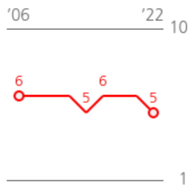

Despite the constitution granting human rights, not all people in Kenya enjoy safe housing or access to clean water. Free primary and secondary education provision is fraught with corruption and hidden costs for parents. Clean and safe drinking water is delivered in urban areas, but not in the majority of rural areas. Adequate housing for all is far from a reality as competing interests, and overlapping responsibilities between the Ministry of Land, Housing & Urban Development and the National Lands Commission paralyze program development. In March 2013, 47 counties were established, each with its own governor and assembly, with new functions and responsibilities. This was an attempt to bring service delivery closer to the people. The county governments have clearly improved service delivery, especially in peripheral areas (e.g., Turkana and other parts of northern and northeastern Kenya).

32% of Kenya’s population relies on unimproved water sources, such as ponds, shallow wells and rivers. 48% lack access to basic sanitation. This is especially evident in rural areas and urban slums. The World Health Organization and UNICEF report that only 59% of Kenyans have access to basic water services, and only 29% have access to sanitary services. 30 million Kenyans (60% of the population) are expected to live in urban areas by 2030. Already strained institutions and infrastructure that receive insufficient public funding and are plagued with corruption, have not been able to keep pace with current demands.

Under the judicial reform framework, the judiciary has substantially reduced its case backlog and has made its services more accessible. Administrative structures do not function properly due to corruption. There is hope that a proposed constitutional review may help to remedy these shortcomings.

During the COVID-19 pandemic, Kenyans largely shunned health facilities, since health workers lacked necessary equipment, and often were admitted to the hospital when their condition was fatal. With over 78% of the population living in rural areas and 52% living in poverty, access to health care for complex cases such as COVID-19 is limited. The government closed all schools and universities on March 16, 2020, and these institutions only reopened in January 2021, with some struggling to meet the prescribed preventive measures against COVID-19. Nearly 70% of school children in Kenya live in rural areas where there is a shortage of well-funded schools, trained teachers, books and supplies.

2 | Political Participation

Free and fair elections

5

Since independence in 1963, Kenya has conducted elections every five years despite the introduction of a one-party state in 1969. With the reintroduction of multiparty politics in 1991, elections have become more competitive. Voting is often along ethnic lines. However, Kenya's election results are perceived not to reflect the will of the people, following the debacle of the 2017/2018 general election.

Elections are generally marred by violence and candidates are generally those selected by party leaders. The 2017 general election was believed to have been marred by manipulation through fake news, enabled by Kenya's high internet penetration among the population (at almost 70%). It was also marred by manipulation of the electronic voter registration and vote compilation system, which gave some candidates undue victories over the bona fide winners at the ballot.

Elections have become more polarized, more divisive and more violent. This is more likely to occur when the main presidential candidates are from different ethnic communities such as the Kikuyu or Kalenjin (current Jubilee Alliance/Party coalition), than when candidates are from the same community.

There is no trust in the ability of institutions to guarantee the integrity of the electoral process. The next elections in Kenya are scheduled for 2022.

Effective power to govern

3

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

Political parties are very weakly institutionalized and serve primarily as vehicles for winning elections rather than for interest aggregation at a broader ideological level. Political parties are susceptible to political realignments in the course of a regime and they tend to either disintegrate or are reincarnated to suit the prevailing political idiosyncrasies. Clientelism and cronyism are pervasive in government and access to opportunities such as land and government contracts is based on how close one is to someone powerful within the regime.

Dissidence is dealt with by overt or covert witch-hunts, using prosecution or threats of prosecution or using the system to remove targets from political positions of responsibility.

Corrupt, self-seeking politicians attempt to interfere with legislation and some key institutions (e.g., the Ethics and Anti-Corruption Commission, parliamentary committees). Because of its critical stand toward the NGO sector, the Kenyatta government has refused to begin the implementation of the progressive Public Benefits Organizations 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, occasionally, it used to interfere with and sabotage NGOs.

County-level government institutions generally fulfill their mandate, but there are partisan individuals in local administration who effectively act as veto players. Indeed, several types of political actors, mostly belonging to the president’s ethnic group, have been appointed to positions within the state apparatus that they use to undermine policies they perceive as counter to the regime’s interests.

Association / assembly rights
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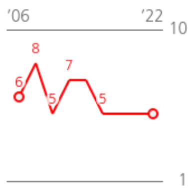


According to the constitution, any group can assemble or associate freely. However, the Kenyan government continues to severely restrict the right to peaceful assembly and expression through the use of disproportionate force, arrests and detention of peaceful protesters, human rights defenders and journalists.

Police brutality increased significantly after the imposition of a curfew to curb the spread of COVID-19. Kenya’s Independent Policing Oversight Authority (IPOA) recorded that more than a dozen people had been killed by police enforcing the COVID-19 curfew as of June 2, 2020. The IPOA noted that 87 complaints against police had been recorded since the end of March 2020 and that, following investigations, 15 deaths and 31 injuries were directly linked to the actions of police officers in relation to the curfew enforcement.

Right from the onset of COVID-19 related restrictions in March 2020, human rights activists protested killings by Kenyan police officers while enforcing these restrictions. They also accused officers of using the situation to extort bribes. Police in various locations were recorded caning people who defied the curfew, while videos and photos showed the police lobbing teargas canisters and clubbing people with batons in the city of Mombasa to clear the streets in advance of the curfew.

Freedom of expression
5

Press freedom exists in Kenya in principle. There is a substantial diversity of published opinions. In practice however, the legal environment in which the media operates is complex. Though the 2010 constitution guarantees freedom of the press, several laws curtail and infringe on this freedom. However, attempts to enact draconian laws and amendments to existing legislation, such as the Parliamentary Powers & Privileges Bill 2015, have so far failed, frequently due to the judiciary nullifying the proposed laws.

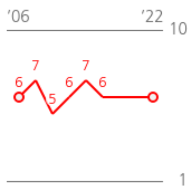
The Kenyatta government has nonetheless successfully enacted laws that grant wide-ranging executive powers to restrict public information and fine or imprison journalists. This has severely undermined media freedom. Such laws include the Media Act (2013), Kenya Information, Communication (Amendment) Act (2013), and the Security Laws (Amendment) Act (2014).

Journalists reporting on the ICC cases (2009 – 2015) and on certain corruption cases face severe threats resulting in increasing self-censorship. People close to the Kenyan government have acquired stakes in the media such as Television Stations, rendering the independence of such media sources highly in doubt. On the 2020 World Press Freedom Index, Kenya fell three places to 103 out of 180 countries.

The Kenyan government is a signatory to treaties like the International Covenant on Civil and Political Rights and is required to protect media workers from threats by state and non-state actors. However, crimes against media workers in Kenya are widespread, typically a response to coverage of elections and corruption cases. The COVID-19 pandemic has further exposed the state's intolerance toward journalists simply conducting their work.

3 | Rule of Law

Separation of powers
6



In the new Kenyan constitution, the 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 in their work by the executive, approving laws that limited political and civic space.

The courts competently fulfilled their role of checking government power by nullifying those laws. After the 2017 elections, the judiciary came under attack from the legislature and the executive, both alleging that it 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 before parliament.

In legal petition No. 120 of 2020 (COVID 025), brought before the High Court of Kenya in Nairobi, the government's curfew order to curb the spread of coronavirus was challenged as having been imposed abusively. The argument was that it circumvented the option under Article 58 of the constitution to declare a state of emergency, which would have been subject to legislative and judicial oversight.

Generally, citizens have confidence in the judiciary's capacity to ensure checks and balances and frequently appeal to the judiciary when they feel that either the executive or parliament are overstepping their boundaries.

Independent judiciary
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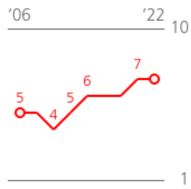
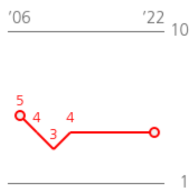


Under the guidance of Chief Justice Willy Mutunga, reforming the judiciary was initially a successful flagship project of the fundamental reform processes required by the constitution. Guided by the Justice Transformation Framework (JTF), Mutunga's most important legacy, with its fresh vetting of all 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, at some point, the pace of reform slowed, corruption cases again upset the judiciary, as did attempts of executive interference. Chief Justice David Maraga ensured that reforms 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 evidenced 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. For instance, the chief justice has accused President Uhuru Kenyatta of disregarding court orders, failing to approve the appointment of new judges, and threatening the constitution. The names of the 41 judges were forwarded to Kenyatta for appointment in mid-2019. Despite Kenyatta's disapproval of some of the judges, whose integrity he questioned through the attorney general, the court ruled in their favor.

Prosecution of office abuse
4



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 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 judiciary and political system have so far proven too weak to break the cycle of impunity. The same applies to extrajudicial killings by the police in the name of fighting insecurity and crime.

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 prosecution (DPP) have been strengthened since 2010. The EACC has suffered from weak leadership, as has the DPP. With appointments of former intelligence and military personnel to key positions and fresh executive backing under Kenyatta's leadership, an anti-corruption campaign began to pay dividends, resulting in numerous arrests and trials of high-level politicians.

Kenya has a poor record in cooperating with international jurisdictions in the prosecution of cases. Kenya is yet to surrender three persons wanted by the International Criminal Court (ICC) on allegations of witness tampering in cases relating to the 2007/2008 election violence. Abuse of office continues. In particular, looking ahead to the 2022 elections, high-ranking officeholders and individuals linked to major corruption-related offenses have yet to be prosecuted or sanctioned. There have been few court cases, and those have primarily involved individuals who have long been out of office (e.g., former members of the Kenya Revenue Authority or former members of the Magistrate Court) or formed part of the parliamentary opposition. There is one case of a high-ranking member of parliament who was sentenced to 67 years in prison because of abuse of office, but so far there has been no official arrest or imprisonment.

Civil rights
6

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. Articles 27 to 46 of the constitution provide for equality and freedom from discrimination and the protection of human dignity, individual rights and democratic rights, freedom of the media and access to information, as well as the right to a clean and healthy environment and consumer rights.

Despite some progress in fostering a culture of respect for civil rights, random arrests and extrajudicial killings by the police forces still occur on a significant scale, mostly without legal consequences for the perpetrators, particularly if political interests are involved. Despite courts of law upholding the rights of LGBTQ+ persons in certain respects, in May 2019, the Kenyan High Court declined to strike down Sections 162 and 165 of the Penal Code which criminalize same-sex conduct. Article 162 punishes “carnal knowledge against the order of nature” with up to 14 years in prison, while article 165 makes “indecent practices between males” liable to up to five years in prison.

Kenya has instituted various legal and policy reforms, to prevent, respond and manage gender-based violence (GBV). The government has committed itself to eradicating the practice of female genital mutilation (FGM) by 2022, and all forms of GBV and harmful practices by 2030.

However, women are still disproportionately disadvantaged in all aspects of public and civil life. Although it is illegal under Kenyan law, widows are still disinherited, including through eviction from family homes and land. In rural areas, women have limited access to justice and discriminatory traditional practices still operate by default. Kenya is a signatory to the International Covenant on Civil and Political

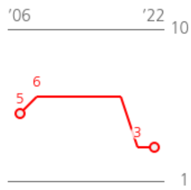
Rights and several other international and regional conventions that seek to secure the human and civil rights of its citizens.

In response to the COVID-19 pandemic, the judiciary embraced the use of technology in the administration of justice among violated children and women. However, pandemic-related lockdowns, including restricted movement, closure of learning institutions, the promotion of learning from home and the cessation of movement in various areas meant children, especially girls, were more exposed to sexual gender-based violence, harmful cultural practices, child marriages, and physical and psychological abuse.

4 | Stability of Democratic Institutions

Performance of democratic institutions

3



The 2010 constitution comprehensively reconfigures 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 ethnoregional 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. Democratic principles are undermined by personal and ethnoregional interests, the frequent realignment of political blocs as a result of political power games.

Even though devolution is officially finalized, the expected jostling for power and influence between and among the different arms of the executive and legislative is still not concluded. However, the county governors, through their Council of County Governors (COG) have emerged as the new locus of power vis-à-vis the national government. Their power is likely to overshadow and render ineffective that of the county legislative assemblies, most of which must contend with ineptitude and corruption.

The first serious attempt to amend Kenya's constitution was a proposal contained in the Building Bridges Initiative (BBI) document, which primarily attempts to alter the governance landscape. Proposals in the BBI envisage closer working ties between parliament and the executive through a prime minister who will be the leader of the majority party. However, the BBI proposals have not yet been implemented. The government currently holds de facto veto powers over parliament.

Commitment to democratic institutions
3

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

Politicians tend to have an ambivalent attitude toward key institutions, especially in the run up to elections, but nonetheless respect court rulings.

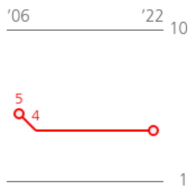
Large political rallies in support of or against a constitutional referendum bill emanating from BBI led by Kenyatta were held as soon as lockdown orders were lifted in October 2020, and this increased COVID-19 infection rates, leading to the need for more preventive measures.

With just 20 months left in his last term in power, President Uhuru Kenyatta, 59, intends, through a referendum, to engineer major constitutional changes that will affect the structure of future governments. The new law will recreate the positions of prime minister and two deputies, leader of the official opposition, as well as expand the legislature by 70 additional seats.

The referendum is widely seen as an early contest between Raila Odinga, who has spearheaded the changes with President Kenyatta, and Deputy President Ruto, whose relationship with the president has waned. However, Kenya's political landscape continues to shift rapidly and could radically change ahead of the 2022 elections.

5 | Political and Social Integration

Party system
4



Political parties and coalitions continue to be temporary purpose vehicles, which from one election to the other serve the interest of strongmen, built around ethnic loyalties and patronage rather than platforms for wider interest articulation.

Party politics are characterized by a high degree of polarization and volatility. Political party formations follow and reflect the ethnoregional alliances built by political leaders. Relations with other interest groups are limited and at best ad hoc. Political parties have very weak ideological grounding.

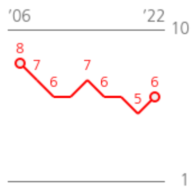
Parties do not aggregate interests that are expressed in social, cultural or economic terms. Instead, leaders use political parties and coalitions to channel and reengineer their individual and ethnoregional interests and rally the support of their ethnic communities. Between elections party activities are largely confined to national headquarters and can hardly be said to represent localities.

The party system remains unstable and dependent on the agreement between founders. Parties tend to disintegrate and fresh alliances are formed when there is a disagreement between party leaders.

As the 2022 elections approach, the current political party dispensation is set to change as alliances shift around President Kenyatta's succession. These realignments will alter the major alliances formed before the 2013 elections and the merger of Kenyatta's party, The National Alliance (TNA,) with Ruto's United Republican Party (URP) to form the Jubilee Alliance. This alliance morphed into Jubilee Party before the 2017 elections and is set to disintegrate along the divide between Kenyatta and Ruto. Parties in opposition are also set to realign in order to strategically position themselves, depending on the actions of key pretenders to the presidency, Odinga and Ruto.

Interest groups

6



There are a wide range of groups representing different interests in the country, including professional associations such as the Law Society of Kenya; religious/faith-based interest groups such as the Kenya Conference of Catholic Bishops; social interest groups such as the gay and lesbian coalition of Kenya, and trade unions.

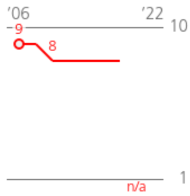
Some interest groups have an ethnoregional base while others operate at the national level. However, some organized interest groups are prone to internal splits along ethnic lines. This has diminished the potential for a unified response by labor unions and professional groups to the issue of corruption, especially at critical times such as during the COVID-19 pandemic.

Interest organizations that could potentially use their significant size as 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. Internal wrangles within such interest groups have severely undermined their legitimacy and have made it easy for the government to ignore their grievances in the past. The Kenya National Union of Teachers and the associations of medical professionals are a case in point.

While interest groups are politically important, their impact varies. The Kenya Human Rights Commission, the Kenya National Commission on Human Rights and the Law Society of Kenya have genuinely and constructively engaged with the government, but their impact remains low. In recent years, some professional interest groups (e.g., Kenya Medical Practitioners) have gone on strike demanding higher wages and better working conditions. More recently, civil society groups opposed to the UK-Kenya Economic Partnership Agreement managed to influence the Kenyan parliament to halt the ratification of the deal until sufficient consultation with the public had been conducted.

Approval of democracy

n/a



The support for democratic forms of government has been on a downward trend, especially since the 2017 nullification of the presidential election, which confirmed the perception that votes cast by ordinary Kenyans did not count in elections. This is made worse by persistent post-election violence in every election cycle and runaway corruption. The preference for democracy over any other form of government amongst Kenyans increased from 67% in 2016 to 75% in 2019 (78% in 2006) according to the Afrobarometer.

The percentage of Kenyans that do not consider their country a democracy or as a democracy with major problems has declined significantly, from 47% in 2012 to 22% in 2018. It is, therefore, not surprising that a recent Afrobarometer survey published in September 2020 found that Kenyans care more about the rule of law and access to justice, reflecting a gradual decline in the belief that democracy can be a harbinger of change. There is a widely held perception that change is impeded more by failure to adhere to the rule of law and a broken justice system.

It should, however, be stressed that the data showing these favorable ratings of attitudes toward democracy was collected two years after the polarized and problematic elections of 2017.

Social capital

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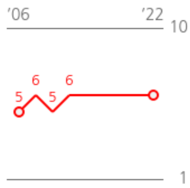


The COVID-19 pandemic disrupted funding and programming for civil society organizations and prevented many from accessing the communities with which they work. With mandatory requirements for social distancing guidelines and high levels of hygiene, activities requiring larger audiences were forced to stop and many organizations had to indefinitely abandon planned projects and activities and divert funding to fighting the pandemic. The unexpected focus was on curbing the spread of the pandemic, addressing rising youth unemployment, domestic violence and improving police accountability.

There was more reliance on food aid and health services offered by community or faith-based organizations due to the low trust in the state's moral will and capability to provide for the poor in such times of crisis as the COVID-19 pandemic. Ordinarily, a large number of social and self-help organizations exist, although without effective division of labor. Most social cooperation is organized around residential neighborhoods or workplaces and is limited by financial and infrastructural constraints. Cooperation is largely a response to immediate problems such as the loss of a loved one or illness, and not strategically practiced to support long-term engagement and social security, such as the establishment of an education fund.

Social trust often remains 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 primarily ethnically homogenous areas than at the national level or in many cosmopolitan areas. Informal savings are still popular throughout Kenya, especially in rural regions, which the significant expansion of bank services has not yet 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. Solidarity and mutual support are less a function of social cohesion but rather an act of social expediency where people give because they know that at some point they too might need help. WhatsApp groups have become an effective tool for mobilization where people who one may hardly know are mobilized to make contributions mostly in matters of meeting medical costs. As a result of this opportunistic motivation for cooperation, solidarity does not necessarily reflect mutuality, and neither does mutuality reflect authentic solidarity. Overall, the level of trust is low among the population. 96% of Kenyans argue that one should be very careful when dealing with other people (Afrobarometer 2019).

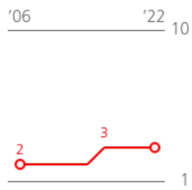
II. Economic Transformation

6 | Level of Socioeconomic Development

Question Score

Socioeconomic barriers

3



Kenya has implemented significant political, structural and economic reforms that have driven sustained economic growth, social development and political gains over the past decade. Kenya’s macroeconomic indicators are among the strongest in Africa, with 5% - 6% GDP growth over the past five years, 6% - 8% inflation, improved infrastructure, and strong consumer demand from a growing middle class. However, its key development challenges still include poverty, inequality, climate change, continued weak private sector investment and the vulnerability of the economy to internal and external shocks. GDP growth was projected to slow to 1.5% - 2.0% in 2020 due to the COVID-19 pandemic. In response, the government reduced corporate income tax and introduced other measures to cushion companies and individuals.

Kenya has the largest and most diversified economy within the East African Community (EAC). According to the Gini Index (2015 estimate) the country has a value of 0.745, an increase from 0.45 in 2014, meaning it remains the most unequal society in the EAC, followed closely by Rwanda (0.742) and Uganda (0.729). This score is corroborated by the inequality-adjusted Human Development Index (HDI). In 2019, an HDI value of 0.601 put the country in the medium human development category, positioning it at 143 of 189 countries. Since 1993, life expectancy at birth has increased by 9.3 years, mean years of schooling has increased by 2.8 years, and expected years of schooling has increased by 2.3 years. Gross National Income per capita has increased by about 37.1%. Kenya made some progress in reducing the incidence of poverty, from 46.8% in 2005/06 to 29.2% of the population in 2018 (World Bank data).

Kenya's Gender Inequality Index (UN data) was 0.545 in 2018, the worst within the EAC, and considerably above the average for medium-income countries (0.489). The number of Kenyan women who ran for office in the 2017 election was 29% higher than in the previous election – a fact that led to the highest number of women ever to be appointed at all levels of the Kenyan government. Women now hold 172 of the 1,883 elected seats in Kenya, up from 145 after the 2013 elections. Despite these gains, women account for only 23% of actual representation, less than the 30% mandated by the country's constitution.

Kenyans generally perceive inequality in terms of unequal regional distribution rather than class. As a result of the COVID-19 pandemic, social exclusion has worsened for the urban poor, people living in the areas of the country that have traditionally been insecure and poorer, and those in rural areas with weak physical infrastructure.

Specifically in education, students from areas with poor or nonexistent internet connectivity have been disproportionately affected by exclusion from online instruction during the pandemic.

Economic indicators		2017	2018	2019	**2020**
GDP	$ M	78965.0	87778.6	95503.1	**98842.9**
GDP growth	%	4.8	6.3	5.4	**-0.3**
Inflation (CPI)	%	8.0	4.7	5.2	**5.4**
Unemployment	%	2.7	2.6	2.6	**3.0**
Foreign direct investment	% of GDP	1.6	1.9	1.4	-
Export growth	%	-6.2	3.9	-0.2	**-0.1**
Import growth	%	8.6	2.5	-2.0	**-0.6**
Current account balance	$ M	-5687.5	-5047.7	-5559.2	-
Public debt	% of GDP	54.8	57.3	59.0	**67.6**
External debt	$ M	26929.6	31413.7	34941.4	**38193.6**
Total debt service	$ M	1546.8	2789.8	4493.4	**2796.1**

Economic indicators		2017	2018	2019	**2020**
Net lending/borrowing	% of GDP	-10.9	-8.6	-4.3	**-**
Tax revenue	% of GDP	15.6	15.1	15.9	**-**
Government consumption	% of GDP	12.9	13.1	13.1	**13.3**
Public education spending	% of GDP	5.4	5.3	5.0	**5.1**
Public health spending	% of GDP	2.1	2.2	-	**-**
R&D expenditure	% of GDP	-	-	-	**-**
Military expenditure	% of GDP	1.3	1.3	1.2	**1.1**

Sources (as of December 2021): 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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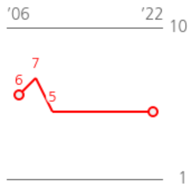


Since independence, theoretically, Kenya has been led by free-market principles, while in fact, it has been subject to major state interventions. Once driven by the government, the economy is now essentially propelled by the private sector as a result of the extensive privatization program.

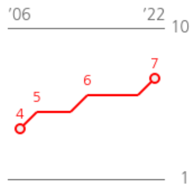
Nevertheless, state-owned enterprises still exist beyond the traditional infrastructure sectors in the banking, wholesale & retail trading and agro-processing sector. Despite progress, market competition still suffers from interference by politicians and political dynasties attempting to advance either their own business interests or to punish companies that cooperated with individual opponents or the opposition. 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).

Kenya's global ranking improved by five positions from 2019 to 56 (out of 190 countries) in the World Bank Doing Business 2020 report, with a score of 73.2. Kenya's areas of improvement include, among others, making construction permits more transparent and modernizing existing electricity supply infrastructure. However, there has not been any improvement in the area of starting a business since 2018, despite Kenya being ranked 126 out of 190 countries in the subcategory "starting a business" in 2019. It takes seven procedures, 23 days and costs 24.9 % of GNI per capita to start a business in Kenya.

Almost 84% of Kenya’s working population are employed in the informal sector. Most enterprises begin operating in the informal sector, as they cannot afford the costs of formal registration and consequent taxation. From a policy perspective, the government treats the informal sector as part of the micro and small enterprises category, which is registered and forms a part of the formal economy. The Micro and Small Enterprises Development Act (2013) has significantly eased access to credit and now regulates the sector for the first time, promoting it as part of the government’s Vision 2030 strategy. The Kenyatta government is in principle committed to this approach and tries to facilitate linkages between the informal sector and the counties.

Competition policy

7



The Competition Authority of Kenya (CAK) was created in 2010 after the implementation of the Competition Act. The act was amended in December 2019 to realign it with Vision 2030. The act creates two new agencies; the Competition Authority of Kenya as an autonomous body that assumes the functions of the Monopolies & Price Commission, and the Competition Tribunal, which replaces the Restrictive Trade Practices Tribunal. The act’s primary purposes are to promote and safeguard competition in the national economy, protect consumers from unfair and misleading market conduct, and establish the Competition Authority of Kenya and the Competition Tribunal.

The Competition Tribunal conducted its first review in 2020. The CAK conditionally approved the merger between Airtel Networks Kenya Limited (Airtel) and Telkom Kenya Limited (TKL) (Kenya’s second- and third-largest telecommunications companies, respectively). The parties applied to the tribunal to review the CAK’s decision and the conditions imposed on the merger. This is a welcome development as it is the first review that the tribunal has considered since it was established. Another example of the CAK’s work is its imposition of penalties on parties for implementation of mergers without prior approval; for example, imposing a fine of approximately KES 500,000 on Moringa School for implementing a merger without the CAK’s approval. The CAK also imposed a financial penalty of KES 1.5 million on Interconsumer Products Ltd for acquiring the assets of Belsize Industries Ltd and implementing the transaction without prior merger approval.

The CAK has issued various guidelines on restrictive trade practices and mergers and initiated an anti-cartel compliance program. 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 between Indian owned Airtel and Telkom was attempted but collapsed in August 2020 due to delays in the approval process.

Kenya is the second-best African country in terms of regional integration policies within the EAC and Common Market for Eastern and Southern Africa (COMESA) regional blocs, according to the Africa Regional Integration Index Report 2019. Kenya's performance on regional infrastructure, productive integration, free movement of people, and financial and macroeconomic integration is high. The country is a member of the WTO and provides notification of draft technical regulations to the Committee on Technical Barriers to Trade (TBT).

Liberalization of foreign trade

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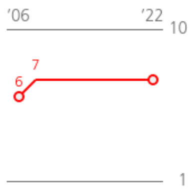

In 2020, Kenya entered into an intent to negotiate a Free Trade Agreement with the U.S. Kenya enjoys trade facilitation agreements (TFA) through the WTO, EAC Customs Union and Common Market Protocols, the Common Market for Eastern and Southern Africa (COMESA) Protocol on Free Trade Agreements and the EU-EAC Economic Partnership Agreement.

The UN Economic Commission for Africa (ECA) estimates large gains for Eastern Africa under the African Continental Free Trade Area (AfCFTA), especially for Kenya which is the most industrialized country in the EAC. However, Kenya's unilateral decision to pursue a free trade agreement with the United States and also with the United Kingdom has triggered criticism from members of the EAC and the AfCFTA. Both the EAC and the AfCFTA agreements discourage members from pursuing bilateral trade deals with third parties.

Despite the commitment to open trade with EAC member states, Kenya has frequently erected non-tariff barriers and engaged in trade wars with its neighbors, in particular Tanzania and Uganda. This has applied to the sugar and poultry industry. Kenya intensified non-tariff barriers in 2017 when Uganda and Tanzania for the first time recorded a trade surplus with Kenya. However, at the beginning of 2021 negotiations began between Kenya and Uganda to end the trade war. Kenya's most tariff-protected sector continues to be agriculture, with "tariff bindings cover(ing) 15.3% of all its tariff lines" according to the last WTO Trade Policy Review Report of 2020.

In 2020, the banking sector included 40 operating commercial banks, one mortgage finance company and 13 microfinance banks which are licensed and regulated by the Central Bank of Kenya (CBK). According to the CBK, 32 out of 39 commercial banks restructured their loans to accommodate the effects of the COVID-19 pandemic. Non-performing loans (NPLs) rose to 13.1% in April 2020 (previous years: average of 10%).

Banking system

8

Once fragile and subject to exploitation for political gains, the banking sector has become far more robust since 2002. Kenya became one of the world's most innovative markets for mobile banking technology. The sector has become well differentiated and Kenya is aligned with 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 moneylaundering through this vibrant financial system. The introduction of mobile money transfers (M-Pesa) revolutionized the economy and the money market. In 2017, 48.7% of Kenya's GDP was processed through M-Pesa.

The World Bank, the IMF and independent analysts consider the banking sector to be stable with a total capital adequacy ratio of 18.8% in 2019, above the minimum capital adequacy ratio of 14.5%. Similarly, the sector's liquidity was above the minimum statutory level of 20.0% at an average liquidity ratio of 49.7% in the same period. Total net assets grew by 9.1% from KES 4,408 trillion in December 2018 to KES 4,809 trillion in December 2019. Aggregate capital adequacy was 16.5% in 2017 (required minimum: 10.5%). The liquidity ratio was 43.7% in 2017, well above the 20% minimum required by the CBK. The problem in the sector was access rather 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). Despite calls by the World Bank, the IMF and independent analysts to remove the cap, parliament voted in August 2018 to retain it.

According to Kenya's Financial Stability Report, the first half of 2020 saw total assets grow by 8.3%, profitability decline by 25.4%, but liquidity increase to 56.5%, as the effects of the COVID-19 pandemic permeated the economy.

8 | Monetary and fiscal stability

Monetary stability

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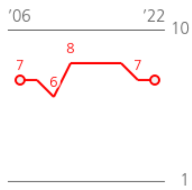

The percentage of Kenya's total population with access to financial services through conventional or mobile banking platforms is approximately 80%. According to the World Bank, M-Pesa is used by 30 million Kenyans and processes more transactions within Kenya annually than Western Union does globally.

The central bank is independent, yet subject to political interference. The Kenyatta government accepted increasing wage bills in the 2017 election year, negatively affecting inflation (the most recent World Bank figure from 2016 is 2.9%).

Kenya's financial sector was stable and resilient in 2019. According to Kenya's Financial Stability Report, the sector's liquidity increased to 56.5% as the effects of the COVID-19 pandemic permeated the economy. Profit declined by 30% in the year to June 2020 and asset quality deteriorated, with the ratio of non-performing loans to gross loans increasing from 12,0% in December 2019 to 13.1% in June 2020. During the past three years, inflation has remained within the central bank's target of 2.5% - 7.5%.

The Nairobi Securities Exchange (NSE) is ranked the best performing exchange in sub-Saharan Africa. The bond market is underdeveloped and dominated by trading in government debt securities. To mitigate the adverse socioeconomic impact of the COVID-19 pandemic, the government launched fiscal, monetary and financial measures. These included reducing income tax rates for individuals and corporates and lowering turnover and Value Added Tax. To cushion policy holders and insurers against the negative impact of the pandemic, the Insurance Regulatory Authority allowed insurers to grant a three months grace period to policyholders who were unable to pay premiums for life insurance, and directed insurers to pay commissions to agents and brokers immediately once the business was transacted. These measures have played a crucial role in fostering resilience and stability of the financial sector, while mitigating the impact of the pandemic on household livelihoods and firms' incomes.

The Kenyan shilling (KES) is not fixed. The average inflation rate was 5.2% in 2019 and the average rate on 91-day treasury bills fell to 7.2% in 2019. According to CBK figures, the average exchange rate was KES 101.99 to USD 1.00.

Fiscal stability

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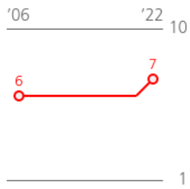

The Kenyatta government is committed to fiscal stability in principle, navigating the right balance between stabilizing the economy and stimulating growth. After government budgets boosted economic growth, the government and central bank enacted anti-inflationary policies to curb the inflation rate. 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 Banking Amendment Act of 2019 provides financial institutions with flexibility regarding how they price the risk of lending. The capital market recorded subdued performance. The equity market capitalization declined by 17.2% in 2020, a drastic reversal from the 20.8% increase in 2019. Foreign investors withdrew from the equity market in 2020, heightening market volatility. The insurance and pension industries remained resilient. The COVID-19 pandemic impacted negatively on insurance premiums and profitability due to loss of livelihoods and restrictions on travel. The assets of the pension industry declined in the first half of 2020, and job losses related to the pandemic are expected to reduce pension contributions in the future.

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.

The COVID-19 pandemic has derailed Kenya's previous fiscal consolidation plans, and demands a new, comprehensive approach to fiscal planning. Overall, the pandemic resulted in a large financing gap, estimated at about 1.5% of GDP in 2019/20, and Kenya's public debt rose by KES 1.3 trillion ($11.8 billion) in 2020 up to 65.6% of GDP in June 2020 (from 62.4% of GDP in June 2019). The country's already large debt service obligations are increasing. By January 2021, the total debt stock had risen to $66.1 billion, up from $54.3 billion in January 2020. Of this $34.4 billion is external and the rest is domestic. Most of the debt accumulated during the period was external and came from both multilateral and bilateral lenders like the World Bank.

9 | Private Property

Property rights

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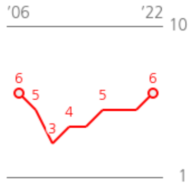

In precolonial Kenya, property rights were based on patriarchy and group rather than individual interest. Land was held communally in the custody of local clans and rights were restricted to use only, as neither families nor communities could sell, subdivide, lease, or rent to others.

The 2010 constitution laid a new foundation for property rights. The constitution makes traditional norms discriminating against women's rights to inherit land illegal. Article 27(3) confers to women and men the right to equal treatment and opportunities in political, economic, cultural and social spheres.

There are three kinds of land tenure systems in Kenya: public land held in trust by the government, community land held by the community, and private land held by individuals either through freehold or leasehold. These constrain the extent of rights that one can have over land.

Landowners from different ethnic groups have often been viewed as "outsiders" by those who consider themselves "indigenous" and this has sometimes led to conflict. Kenya's constitution is consistent with international interpretations of equality and nondiscrimination but falls short of ensuring substantive change due to a lack of adequate enforcement.

The Business Laws (Amendment) Act, which came into force on March 18, 2020, amended various statutes to facilitate property acquisition in Kenya. Generally, the institutional and legal framework provides for the protection of people's property rights and prescribes processes through which the state can acquire an individual's property.

Private enterprise

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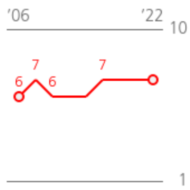

In theory and by law, fair and equal competition between private and public enterprises is the rule, but there are regular exceptions where state corporations are protected by either guaranteed market share, lower marketing hurdles or preferential access to government credit with lower interest rates.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

The government grants the right for foreign and domestic private entities to establish and own business enterprises and engage in all forms of remunerative activity. Kenya's regulatory, business registration and licensing systems are relatively transparent. Business registration and licensing systems are fully digitized and computerization of other government processes to increase transparency and close avenues for corruption is ongoing.

Employment in Kenya's formal sector was 2.9 million in 2019 (2.8million in 2018). The government is the largest employer. In the private sector, agriculture, forestry, and fishing employed 296,700 workers while manufacturing employed 329,000 workers. Kenya's large informal sector (approximately 80% of the labor force) makes accurate labor reporting difficult.

10 | Welfare Regime

Social safety nets

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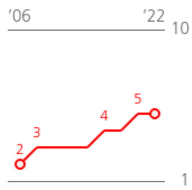

The constitution contains a comprehensive bill of rights and obligates the state to provide social security to all those who cannot support themselves. Chapter four of the constitution grants the right to health care, reasonable working conditions, freedom from hunger, clean and safe water and education. These rights are to be ensured by the government providing the appropriate conditions and framework for their fulfillment.

Currently, there are four different programs that seek to help different vulnerable groups: The Hunger Safety Net Program, cash transfers to orphaned and vulnerable children, to older persons and to those with severe disabilities. According to Deputy President Ruto, the government spends approximately €22 million annually on social protection, 40% of which come from donor institutions. Before the COVID-19 pandemic, Kenya's national safety net program significantly expanded the coverage of cash transfers from 299,000 to 1.2 million households, reaching a total of 5 million people in 2019 (2.3 million of which are women).

Seven NGOs, the government, the EU and the Danish and German governments are working together to implement a 'Safety Nets' program targeting Kenya's millions of informal workers. As a response to the COVID-19 pandemic, the government created a COVID-19 emergency fund to support people living in poverty and the vulnerable against the impacts of the pandemic. Weekly stipends to poor and vulnerable households were launched to cushion households – particularly within Nairobi.

The government also allocated KES 5 billion ($47 million) to county governments to support the refurbishing of hospitals, improving equipment, strengthening health systems at county level and clearing pending arrears of KES 500 million ($4.7 million) to disabled persons to fund social protection in the form of cash transfers.

Equal opportunity

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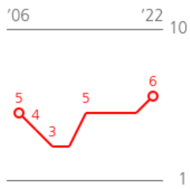

The constitution guarantees equality and inclusion, and mandates parliament to legislate for the operationalization of such guarantees, but this is constrained by structural challenges. As a result, some groups are more disproportionately affected by economic shocks and more likely to be excluded from social services and gains from economic growth than others.

For example, as a result of the COVID-19 pandemic, labor force participation rates for women declined by approximately 25% between 2019 and 2020 as compared to a decline of about 10% for males. The introduction of free primary education has facilitated increased enrollment for both sexes with a Gross enrollment ratio of 109%. Overall, girls are more likely to stay in primary, transition to secondary and complete secondary school compared to boys, but girls are severely disadvantaged in the arid and semi-arid regions in the north.

It is estimated that 2.2% of Kenya's population (900,000 people) live with some form of disability (Kenya Population and Housing Census, 2019). People with disabilities are more likely to suffer opportunistic infections, lack employment and lack adequate livelihood opportunities.

Kenya has made tremendous efforts toward creating a legal and policy environment that promotes and protects the rights of the older members of society. Article 57 of the constitution outlines these rights. Government stipends to people with disabilities and older people help to reduce their vulnerability to exclusion from social services.

11 | Economic Performance

Output strength

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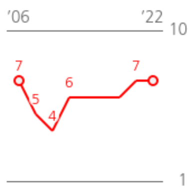

Following a decade of strong economic growth, Kenya attained the status of a middle-income country in 2014. This was driven by strong growth in agriculture due to improved weather conditions, a resilient performance of services sectors, strong private consumption and sustained confidence in the economy due to fewer political uncertainties. Kenya's economy maintained its good performance in 2019. The growth of East Africa's largest economy is expected to bounce back in 2021 after being affected by the pandemic, lifting real GDP by 6.9% annually (World Bank figures).

As a result of the locust plague and measures to manageCOVID-19, the economy contracted by 1.0 - 1.5% in 2020. The COVID-19 pandemic pushed two million people into poverty and took a toll on the government's finances. The unemployment rate doubled to 10.4% by mid-2020. Kenya's total debt increased to 65.6% of GDP in 2020 from 62.4% in 2019 (World Bank figures). In November 2020, the country removed the interest cap rates that limit the interest on loans to four percentage points above the 2016 benchmark, as a means to foster the recovery in private credit growth.

Kenya is particularly advanced in the services sector, which contributes 42.7% of GDP and employs 35% of the workforce. Agriculture represents nearly 35% of Kenyan GDP and employs 57% of the workforce. Agriculture and horticulture are the two largest sectors of the economy. The country exports tea, coffee, cut flowers and vegetables. These industries account for 16.4% of GDP and employ 8% of the workforce. The economy has reduced its dependence on the performance of the agricultural sector.

Tourism, a core sector of the Kenyan economy, has been affected by several terrorist attacks since 2013. According to Kenya's Tourism Ministry, the tourism sector lost close to $1 billion in revenue between January and October 2020, due to travel restrictions caused by the COVID-19 pandemic.

In spite of the difficult operating economic environment due to the pandemic, revenue collection in the 2019/20 financial year registered a 1.7% increase compared to 2018/19, representing a performance rate of 97.9% against the target, which is favorable and matches the prevailing economic indicators, especially the projected GDP growth of between 1.5% and 2.3% in 2020.

Although Kenya is one of the largest recipients of FDIs in Africa, flows remain relatively weak considering the size of its economy and its level of development. According to UNCTAD's 2020 World Investment Report, FDI flows into Kenya decreased by 18% to $1.3 billion in 2019 (compared to $1.6 billion in 2018), despite several new projects in information technology and health care.

12 | Sustainability

Environmental policy
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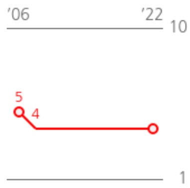

Kenya's most pressing environmental issues include climate change, deforestation, poaching, soil erosion, water mismanagement and degraded water quality. The main forces leading to resource degradation are population growth, low agricultural productivity, inadequately designed and managed settlement 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.

The 2010 constitution spells out principles, obligations and guidelines for environmental management, reflecting a strong commitment to environmental preservation and rehabilitation. Since 2010, Kenya has been developing and refining a climate change response strategy that is now based on the National Adaptation Plan 2015 – 2030.

The country has deliberately invested in sustainability. Green initiatives in the energy sector include geothermal power production, solar energy, biogas energy, and power generation from the sugar processing sector. There has been great investment in infrastructure, namely rail and road networks. The process of transforming the transport sector to use buses rather than the current 14-seater matatus is ongoing. As of 2012, Kenya's Turkana wind farm for producing wind energy was the largest such project on the continent.

Despite these achievements, political commitment does not always match the urgency of policy rhetoric.

Devolution in Kenya has also added to the challenge. While the responsibility for implementing environmental policies has moved to the county level, there is not necessarily a concomitant transfer of technical expertise and financial resources to that level.

Education policy / R&D
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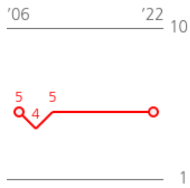

Kenya's education policy has led to a system of education and training of average standard, with qualitative deficits in secondary and tertiary education despite high rates of school enrollment. Public research and development is growing. The Kenya government meets the cost of universal primary education and tuition at secondary education, resulting in relatively high budgetary allocations compared to other East African countries. This has led to almost 100% attendance in primary schools and increased transition from primary to secondary of 70% across the country. However, education remains underfunded, and together with widespread poverty and inequality create challenges.

The country's adult literacy rate was 81.5 % in 2018 (78.7% in 2014), according to the World Bank. Though still at 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 is one of Kenya's assets in its pursuit of becoming a medium middle-income country. Government spending on education has oscillated between 5.2% and 5.5% of GDP between 2012 and 2018.

Kenya lost the 2020 academic year due to COVID-19 restrictions. The pandemic exacerbated previous inequalities by excluding vulnerable children from receiving quality education. The digital divide excluded children with disabilities, those living in informal settlements, slums or remote locations, asylum-seekers and refugees. The closure of schools affected more than 18 million children in Kenya and has subsequently prompted the development of a COVID-19 response plan (Kenya Basic Education COVID-19 Emergency Response Plan).

Kenya spends approximately 0.8% of its national GDP on research programs. Independent think tanks, international agencies, universities and research institutes collaborate with the government to enhance research activities, but universities still operate within severe financial constraints. Government subsidies to universities can be put to a variety of uses, and it is unclear how much of the government grants are channeled into research.

Governance

I. Level of Difficulty

Structural constraints
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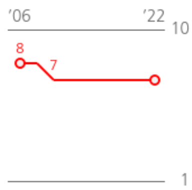

Kenya has high economic and administrative potential associated with its traditional political stability and comparatively well-educated workforce. However, the incidence of poverty remains high. Population growth has substantially decreased from 3.8% in early 1980s to 2.5% in 2017. At current growth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

The COVID-19 pandemic has had a large impact on unemployment and underemployment. Kenya's unemployment rate doubled from 5.2% in the first quarter to 10.4% in the second quarter of 2020, due to the COVID-19 pandemic, according to the Kenya National Bureau of Statistics. Census data released late 2020 showed that 38.9% of the 13,777,600 young Kenyans are jobless, further widening the gulf between the wealthy and the poor.

Economic and social disruptions due to the COVID-19 pandemic are undermining Kenya's 2030 Vision plans to improve the lives of ordinary people, according to the World Bank.

Civil society traditions
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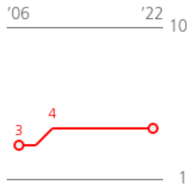

Civil society has played a crucial role in building a democratic public sphere. Lawsuits initiated by CSOs prior to the 2017 elections helped to increase transparency of the elections and the accountability of the electoral commission.

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 overwhelmingly Nairobi-based civil society organizations (CSOs) 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.

Kenya's civil society is vibrant, with more than 6,000 NGOs registered by the government. They play an important role in many sectors, including in the response to the COVID-19 pandemic most recently, as well as land issues, peace building, security, education, gender equality, health, extractive resources, agriculture, manufacturing, housing and trade.

Conflict intensity
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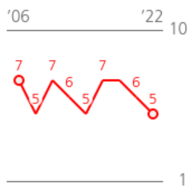

The legalization of political parties immediately brought long-standing but previously suppressed ethnopolitical cleavages to the surface. Conflicts initially took the appearance of ethnic conflicts, but their nature was less intrinsically ethnic than distributional.

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 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.

The COVID-19 pandemic has seen an increase in ethnic and racial discrimination and prejudices against ethnic and racial minority groups.

II. Governance Performance

14 | Steering Capability

Question Score

Prioritization

6

Kenya's development priorities are based on the Kenya Vision 2030, the goal of which is to transform Kenya into "a newly industrialized, middle-income country providing a high quality of life to all its citizens in a clean and secure environment." The vision is actualized through five-year Medium Term Plans (MTPs). The current plan, MTP III (2018 - 2022) aims to achieve accelerated, high, inclusive, broad based and sustainable economic growth and social economic transformation and development through the "Big Four Agenda;" manufacturing, universal health care, food security and affordable housing.

By 2022, the objective is that Kenya offers universal health care coverage, has 500,000 affordable homes, an increased share of manufacturing in the economy up to at least 15% and affordable and nutritious food for all Kenyans. However, as of January 2021, there was still little progress.

A key precondition to progress is the continued rehabilitation and expansion of the country's physical infrastructure, which has seen huge investments in road, railway (Mombasa - Nairobi, since June 2017) and port systems, connecting road networks (Lamu Port for the transport corridor of Ethiopia, South Sudan and Kenya) and rural electrification. Although a recurring issue of political interest to Kenyans since independence, little or no progress has been made with regard to land reforms in a way that addresses historical injustices. The government remains focused on its strategic aims to increase economic growth and secure the country's position as the region's economic powerhouse.

Within the executive, it appears that Kenyatta's new cooperation with Raila Odinga, leader of the Orange Democratic Movement, is driven by his desire to leave a legacy of anti-corruption and a more united nation. This has come into direct conflict with Deputy President Ruto's aspirations to run for president in 2022 and has introduced new dynamics that are bound to influence the next elections.

The COVID-19 pandemic has exposed years of underfunding of the health sector, as well as weaknesses in social security. The government has tried to make up for these inadequacies by using short-term injections of funding, while at the same time abiding by its long-term agenda for development.

Implementation

6

The Kibaki presidency (2002 - 2013) set out to transform Kenya after years of dictatorship, stagnation and economic mismanagement. In January 2003, Kibaki introduced free primary education, which increased school enrollment by over one million. He also delivered on some other campaign promises.

Kibaki pledged to eliminate the corruption that had crippled the country's economy and had resulted in the withdrawal of foreign aid. The Kibaki presidency can be credited for getting Kenya's economy back on track and laying a strong foundation upon which his successor Uhuru Kenyatta has built.

Kenya's political, structural and economic reforms in the last two decades have sustained economic growth and social development. The country met several of the Millennium Development Goals (MDGs) targets, such as reduced child mortality and near universal primary school enrollment. It narrowed gender gaps in education and is working on its big four priority areas of manufacturing, universal health care, food security and affordable housing. The COVID-19 pandemic has further underscored the importance of housing to public health. It also led to the prioritization of health care spending through increased remittances to county governments, helping to build capacity for improving health outcomes in the long run.

In 2018, President Kenyatta announced that no new government projects would be initiated before the majority of the large number of stalled or unfinished projects was completed. This serves both as an acknowledgment of weaknesses in program implementation and demonstration of political will to respond to the challenge. A comprehensive scorecard on each of the campaign promises needs to be produced to ascertain if indeed action was taken. The reform of the judiciary is a major milestone worth noting. Much is still to be done to transform the police force and the general political environment in a way that serves all Kenyans well.

Policy learning

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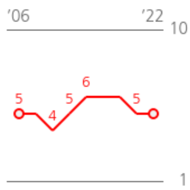

The COVID-19 pandemic has highlighted Kenya's lack of learning from the African Union Abuja Declaration. There are repeated labor actions by medical professionals protesting the lack of investment in public health infrastructure and the lack of action against cartels that continue to misappropriate public funds.

Furthermore, there appears to be insufficient learning in national security institutions as the victimization of the Kenyan-Somali and Muslim communities in the country contributes to the further radicalization of some members of Kenya's Muslim population. The 2019 terror attack on Nairobi's Dusit D2 Hotel was evidence of the increasing threat of Kenya's homegrown terror. Most of the attackers were Kenyan-born and the suicide bomber was raised 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. Kenya continues to engage in international and regional cooperation although the perennial trade wars with neighbors - especially Tanzania - demonstrate an inability to overcome trivialities from the past. As a consequence, commitments such as regional integration continue to fall short in terms of delivering improved trade and welfare for the majority of Kenyans.

15 | Resource Efficiency

Efficient use of assets

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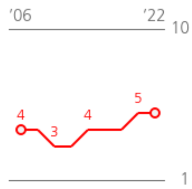

Kenya is in the midst of a severe resource crisis. Debts and the wage bill have reached a near-unsustainable level and the government is running a budget deficit it can barely finance. The national government's share of wages and benefits to public revenues in the financial year 2020/21 is projected to be 36.9%, a contravention of Section 15 (2) (b) of the Public Finance Management Act, 2012 which sets the threshold at 35%.

There is inconsistent public participation and scrutiny of sector budgets. For example, evidence suggests that the 2020/2021 budget for the judiciary was subjected to public participation but the budget for the legislative arm was not. Resource reallocations have hampered the success of priority projects. For example, many of the targets of the Big Four projects are yet to be achieved.

Kenya obtained $788 million in loans from the IMF and the World Bank and sought a second loan from the IMF in late 2020. This multilateral debt adds to Kenya's debt burden from the domestic and international financial markets and from bilateral players like China, increasing the prospects of a credit risk downgrade, and making it difficult for Kenya to meet its debt obligations in the near future.

Public debt is projected to reach 69.8% of GDP by 2023, increasing public debt service from 9.8% to 12.9% of GDP between 2019 and 2023. For debt sustainability, Kenya is required to reduce public expenditures from 22.4% to 19.2% of GDP between 2019 and 2023. This poses a high risk of generating social and economic tension.

The government's fiscal consolidation course is based on reducing development expenditures, instead of reducing the wage bill and trimming recurrent expenditures. This would reverse previous gains when the ratio between development and recurrent expenditures had improved from 17% to 80% (2006) and from 27% to 71% (2017).

Politically motivated appointments continue to occur in all ministries, and recruitment for top positions is still driven by personal and ethnic loyalties. Competitive recruitment and workplace meritocracy are often undermined by short-term political considerations by the ruling party, especially ahead of the 2022 presidential elections.

To increase efficiency and service delivery and to enhance accountability, Kenya completed a devolution initiative in 2019. However, regional government systems have been transformed into an expanding network of patronage and clientelism, through the creation of new ministries and departments on the county level. Essential services like health, education and the judiciary have improved, however, especially in the arid areas in the north and north-east of the country they remain significantly understaffed and underfinanced.

Policy coordination
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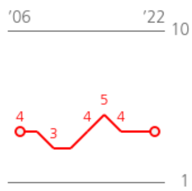

Typical for a neo-patrimonial system, various coordination styles prevail. The hierarchic-bureaucratic approach officially dominates but is often undercut by informal networks and the personalization of functional relations. The tension level within the Kenyatta government is lower than in previous governments 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 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 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.

Anti-corruption policy
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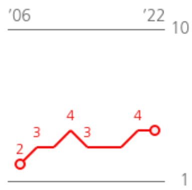

Despite the economic progress made by Kenya in the last two decades, corruption remains a major challenge persistently undermining the country's development potential. Yet the fight against corruption remains largely a superficial exercise to appease the public. Highly placed individuals involved in grand corruption have yet to be prosecuted as frequently as low-level perpetrators. In cases where ministers are under investigation, their decision to step aside or resign is regarded as a sign of progress, although investigations do not result in criminal prosecutions.

So far, through international agreements signed with countries such as the UK and Switzerland, the Kenyan government has recovered some of the money stolen through corruption and kept in offshore accounts. According to the Ethics and Anti-Corruption Commission of Kenya, approximately $187 million at current exchange rates was recovered in the last five years. The cash, land and property recovered from corrupt officials in the financial year 2019 - 2020 was KES 11.3 billion (almost $103 million), representing a near 300% increase from the previous year.

Although there is some progress, the institutions created to fight corruption remain dysfunctional, primarily because they operate within a complex system of patronage in which the perpetrators are politically connected to the authorities. The Ethics and Anti-Corruption Commission has a very low rate of cases forwarded to the attorney general's office for prosecution. Only 2% of the complaints received result in prosecution.

The Office of the Auditor-General regularly produces audit reports on the government as is prescribed by law. Parliament scrutinizes budgets and expenditures but there is a need to enhance the capabilities for taking punitive measures against corrupt officials regardless of status so as to discourage the vice and earn the public's confidence in oversight institutions.

16 | Consensus-Building

Consensus on goals

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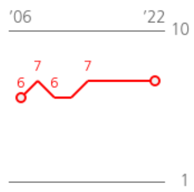

Kenyan politicians, the business community, civil society, Christian churches and mainstream Muslim groups, as well as the vast majority of Kenyan citizens, agree in principle on democratic norms. Even though no leading Kenyan politician openly doubts the merits of democratic electoral contests and basic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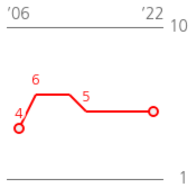

There is no political force openly opposed to democracy and democratic reform per se. However, self-interested individuals attempt to sabotage democratic policies if they believe their interests are threatened. Odinga has been at the forefront of democratic reforms since the 1980s, but on several occasions 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.

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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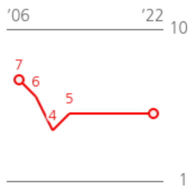

Kenya remains deeply divided along ethnic lines. Political leaders of all major groups continue to organize interests along these lines. They transform personal power struggles into conflicts between ethnic communities over access to resources and thereby politicize, engineer and exploit differences 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. In 2013, Kenyatta and Ruto formed an alliance of convenience and won the 2013 and the 2017 elections by combating the ICC charges as the initially unifying factor. The control of national power has kept the alliance and local hawks 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 ethnoregional 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. 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 2019. The weak and non-conceptual counter-terrorism strategy of the Kenyatta government has further aggravated tensions.

In December 2020, the Inter-Religious Council of Kenya partnered with the Ministry of Education and UNICEF Kenya to produce a series of video messages by Kenyan faith leaders encouraging parents to send their children back to school in January 2021, following a long school lockdown due to the COVID-19 pandemic. Religious leaders under the Dialogue Reference Group in January 2021 demanded accountability in the use of funds meant for managing the pandemic, reminding the country's executive and legislative branches not to abet corruption by neglecting their duty of oversight and maintaining vigilance over public funds.

Civil society participation
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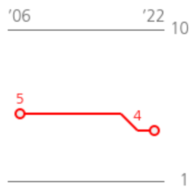

Traditionally, civil society has performed the role of watchdog, making it appear to be opposed to the government. After the 2007 and 2013 elections, civil society organizations attacked the government and parliament for their lackluster fight against corruption, the continued impunity enjoyed by perpetrators of past crimes and the undermining of the constitution through watered down legislation. 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. CSOs have played a major role in causing deeper scrutiny of the US-Kenya and UK-Kenya Economic Partnership Agreements, resulting in parliament delaying ratification.

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. 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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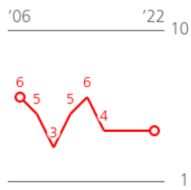

There have long been calls for some sort of mechanism to deal with past crimes, and a campaign of reconciliation. Perpetrators of the ethnic clashes of 2008, which led to the deaths of more than 1,000 people and forced hundreds of thousands of Kenyans to flee their homes, have never been prosecuted.

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.

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.

Many politicians prefer to let these differences serve their current interests. However, unaddressed historical injustices and ethnic differences are likely to be drivers of future conflicts. The Building Bridges Initiative (BBI) is seen as a means for the political class to carry out more reforms without addressing the historical injustices that Kenyans continue to demand are addressed through reconciliation.

17 | International Cooperation

Effective use of support

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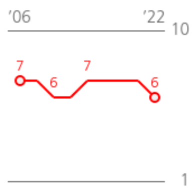

Kenya has continuously reduced its aid dependence. From an all-time high of 132% of GDP in 1993, it reduced its debt levels by 27% by the end of 2018. Between 2000 and 2017, Kenya accumulated a debt of about $1 billion to China (making it China’s third-largest African debtor), which replaced Japan as 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.

Depending on their primary interest, past donors have arrived at different conclusions regarding the government’s reform performance. 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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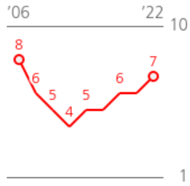

Kenya has remained an active member of many international organizations. It currently holds the leadership of UNCTAD and sought – though unsuccessfully – to obtain leadership positions in WTO and the African Union.

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 nationally 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. The IMF and World Bank see the country on the right track to strengthening and broadening its economic growth through substantial investments into the country's infrastructure financed through debt, although the IMF has several times stressed that the country's debts run the risk of becoming unsustainable.

The country has been criticized by Human Rights Watch for failing to hold security forces to account for serious human rights violations including extrajudicial killings and enforced disappearances. The country has also been criticized for inhumane evictions of people from the Maasai Mau forest and its failure to protect the rights of LGBTQ+ persons.

Regional cooperation

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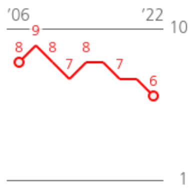

Kenya is a member of all relevant regional organizations. In the African Regional Integration Index of 2019, Kenya was ranked as a top performer within the EAC, COMESA and IGAD.

Kenya continues to be involved in trade wars with its EAC neighbors, namely Uganda and Tanzania. For almost two years, Kenya has banned Uganda's milk from its market and levied prohibitive taxes on poultry products from Uganda, a protectionist response to demands from local farmers to bar Ugandan products from their domestic market. As a response to the COVID-19 pandemic, Kenya blocked Tanzanian truck drivers from entering its territory and has for a long time engaged in a perennial trade war with Tanzania and frequently blocks Tanzania's agricultural products from entering its territory.

Even as it undermines its commitments under the EAC Customs Union and Common Market Protocols, Kenya has ratified reciprocal bilateral trade agreements for duty-free access to the U.S. and UK markets. Most analysts believe that these agreements will have detrimental effects on trade within the EAC.

Although Kenya cannot be held entirely responsible for the stalemate in EAC integration, as the region's strongest economy it could have played a more assertive role as a unifier with a more strategic regional orientation, rather than acting according to narrow parochial self-interest.

For decades, Kenya has been considered a constructive, mainly neutral force and arbitrator seeking solutions for the many crises that have affected the Horn of Africa and the wider East African region. As the country assumes leadership of the EAC in 2021, it is hoped that it will lead by example, try to heal fractures and work toward getting the EAC integration process back on track.

Strategic Outlook

In the future, Kenya will face six principal challenges. How they are met will determine whether 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 is 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.

Second, concerns over security are heightened by a burgeoning youth population and the difficulties associated with absorbing an increasingly educated workforce into formal employment. Young people= constitute over a third of the population and 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 county governors to protect devolution against the 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 laudable. However, the opening up of new political arenas at the local level is clearly a threat to effective planning and implementation. This has led to unnecessary duplication of roles 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. It also acts as 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.

Fifth, economically, it is= essential that the Kenyan government regains control over the country's spiraling debt (57% of GDP in 2018) without suffocating economic expansion through an undoubtedly essential fiscal consolidation. The government must shift direction by trimming the bloated public service sector, rather than cutting back on the budget's development share, as it did recently. This means Kenya must reduce public expenditure from 22.4% to 19.2% of GDP by 2023, or it risks stoking substantial social and economic tensions that have already been exacerbated = by the COVID-19 pandemic. These changes are likely to be similar in magnitude to the structural adjustments of the 1990s. In the medium term, the World Bank expects solid robust growth rates of approximately 6%, which are however too low to achieve the Sustainable Development Goal 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 (e.g., 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 will spur economic growth, for instance, infrastructure development that can open up large areas that have hitherto been neglected economically. A good example of this is the Moyale Road connecting Kenya with Ethiopia, part of the Lamu Port and the Lamu-Southern Sudan-Ethiopia Transport Corridor (LAPSSET) project, which has opened up the common borders and immediate areas along the border that had previously been starved of economic development.