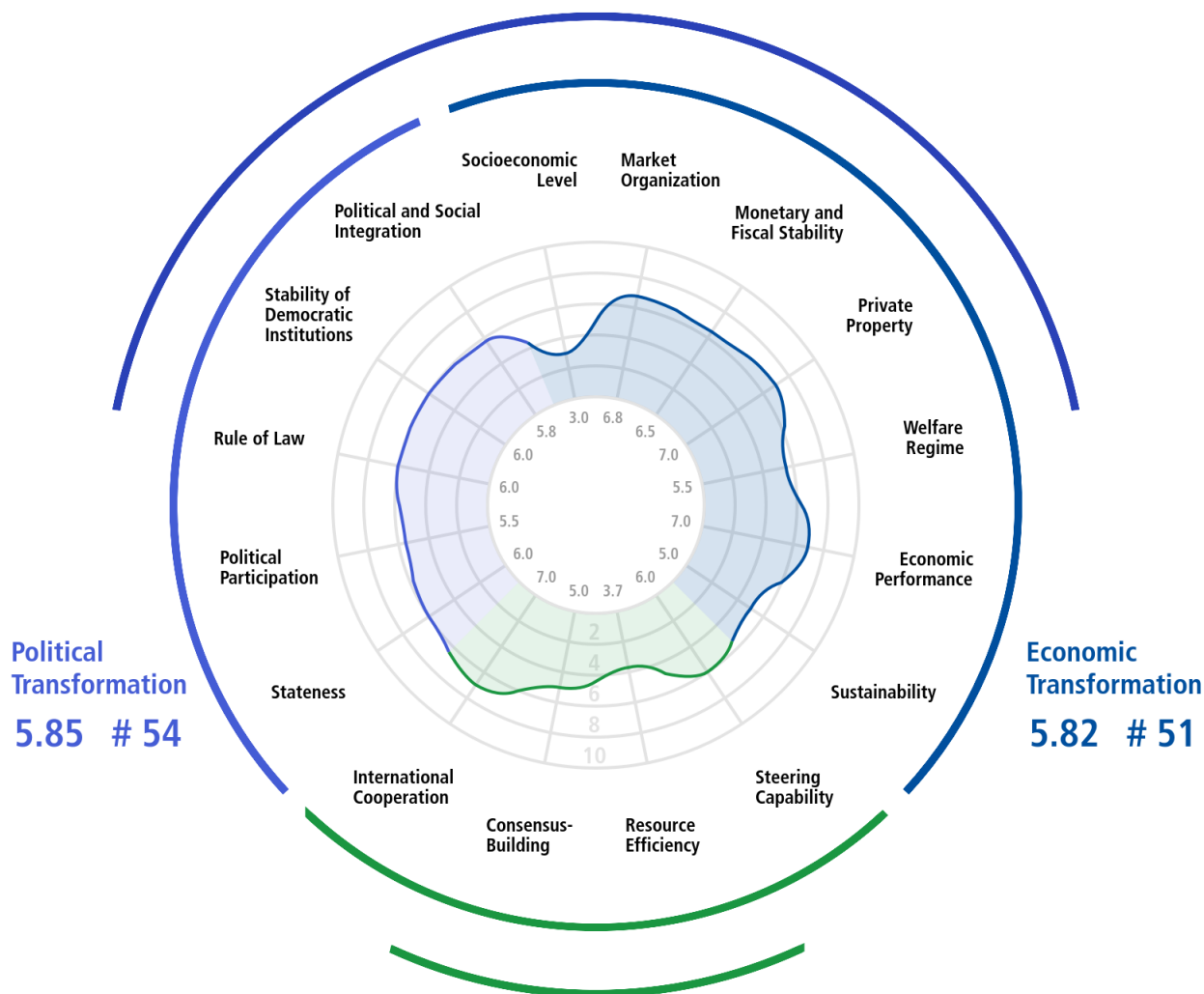


# Kenya

## Status Index

**5.84 # 51**

on 1-10 scale out of 137



**Political Transformation**  
**5.85 # 54**

**Economic Transformation**  
**5.82 # 51**

## Governance Index

**4.94 # 58**

on 1-10 scale out of 137

This report is part of the **Bertelsmann Stiftung's Transformation Index (BTI) 2024**. It covers the period from February 1, 2021 to January 31, 2023. 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	<b>54.0</b>	HDI	<b>0.575</b>	GDP p.c., PPP \$	<b>5764</b>
Pop. growth <sup>1</sup>	% p.a.	<b>1.9</b>	HDI rank of 189	<b>152</b>	Gini Index	<b>38.7</b>
Life expectancy	years	<b>61.4</b>	UN Education Index	<b>0.519</b>	Poverty <sup>3</sup>	% <b>70.1</b>
Urban population	%	<b>29.0</b>	Gender inequality <sup>2</sup>	<b>0.506</b>	Aid per capita \$	<b>59.3</b>

Sources (as of December 2023): The World Bank, World Development Indicators | UNDP, Human Development Report 2021-22. Footnotes: (1) Average annual growth rate. (2) Gender Inequality Index (GII). (3) Percentage of population living on less than \$3.65 a day at 2017 international prices.

## Executive Summary

The period under review was marked by political intrigue over President Uhuru Kenyatta's succession. In March 2022, the Supreme Court halted Kenyatta's bid to amend the constitution through his Building Bridges Initiative (BBI). The BBI, a brainchild of Kenyatta and opposition leader Raila Odinga, stemmed from their March 2018 "handshake" and sought to introduce a series of constitutional changes that would have affected the structure of the executive and legislature, as well as the devolution process.

During the Kenyatta administration, the doctrine of separation of powers came under increasing pressure. Following the Supreme Court's nullification of the 2017 presidential election, the relationship between the executive and the judiciary became increasingly acrimonious. During the period under review, Kenyatta's government continued to encroach on the independence of the judiciary by refusing to obey court orders with which it disagreed. In June 2021, Kenyatta approved the appointment of only 34 out of 40 nominated judges, in violation of the constitution. Additionally, his government continued to starve the judiciary of funds, crippling its effectiveness.

Moreover, Kenyatta and Odinga's BBI rapprochement created a peculiar state of affairs in the governance landscape. In parliament, the opposition was seemingly co-opted into the government, while Deputy President William Ruto and the legislators who supported him operated de facto as the opposition.

While the official campaign period for the 2022 elections began on May 29, 2022, in reality, the campaign had been going on for years. Ruto, who refused to step down as deputy president, distanced himself from the government's failures. Running under the Kenya Kwanza coalition, his campaign redefined political rhetoric, reframing it as a class-based struggle of poor "hustlers" against elite "dynasties." His manifesto proposed a bottom-up economic model and a "hustler

fund” that would put capital in the hands of ordinary people. Odinga, backed by Kenyatta, campaigned under the Azimio coalition. Despite his reputation as a champion of the marginalized, Odinga struggled to fully distance himself from the continuity candidate and elitist tag.

Kenyatta had staked his legacy on the achievement of his “Big Four Agenda,” which focused on universal health care, food security, manufacturing-sector growth and affordable housing. However, Kenya’s high debt burden and widespread corruption continued to hamper progress. The COVID-19 pandemic, a severe drought and the impact of the global economic slowdown further affected the economy. While the economy rebounded to a growth rate of 7.5% in 2021, Russia’s invasion of Ukraine, rising inflation rates and the persistence of unemployment made Kenya’s Kwanza narrative all the more attractive.

Ruto narrowly won the August 2022 election, a result that was still being disputed by Odinga as the review period closed. In the first five months of Ruto’s government, a combination of progressive and regressive measures has been observed. Notably, Ruto made progressive appointments of judges, including those whom Kenyatta had declined to appoint. Additionally, a special police unit implicated in gross human rights abuses was disbanded. However, the government has also implemented a number of regressive measures, most notably in the battle against corruption.

Although ethnicity continues to play an important role in Kenya’s ethno-regional politics, the country’s heavy debt burden, rising inflation, increasing poverty and widespread unemployment helped shift the rhetoric of the 2022 elections to a class-based economic debate.

## History and Characteristics of Transformation

The 2002 elections in Kenya represented a turning point in the country’s history. Drawing knowledge from past experiences, the opposition brought together various parties to create the National Rainbow Coalition (NARC), under the leadership of Mwai Kibaki. These elections, which some argue were the most open and equitable in the nation’s history, signaled a shift from the autocratic governance of President Daniel Moi to what was envisioned as a prosperous democracy.

The independence constitution, which had been altered through incremental amendments to favor the former ruling regime, remained a significant challenge in Kenya’s governance structure. In 2007, Kenya held elections under this constitution, after a failed attempt to revise it in a 2005 referendum. President Mwai Kibaki, seeking a second term, faced a formidable opponent in opposition leader Raila Odinga, who had previously supported him in 2002 but distanced himself after Kibaki failed to honor an agreement to back Odinga in the 2007 election. With an ineffective electoral commission, Kenya experienced a contentious election characterized by heightened ethnic tensions. Kibaki’s claim of victory and subsequent swearing-in ceremony in the evening ignited unprecedented violence that resulted in the deaths of over 1,300 people and the

displacement of more than 600,000. An internationally mediated agreement in 2008 restored stability and led to Odinga joining Kibaki's government as prime minister in a power-sharing coalition. The agreement also identified long-term challenges to governance that needed to be addressed, with tasks including constitutional reform, the promotion of national unity, and efforts to address poverty and unemployment. In 2008, Kibaki launched Vision 2030, a comprehensive development plan aimed at propelling Kenya to middle-income-country status by 2030. The coalition successfully completed the constitutional reform process, and the draft was approved in a referendum in 2010.

In 2013, Uhuru Kenyatta and his deputy, William Ruto, ran for the presidency under the shadow of an indictment from the International Criminal Court. They emerged victorious in the election, which also marked the introduction of 47 county governments as part of a devolution process. The previous administration had bequeathed them a stronger economy compared to what it had inherited from the Moi government. To boost economic growth, the Kenyatta government made substantial investments in infrastructure projects, particularly in the road and rail network. However, its heavy reliance on domestic and foreign borrowing, combined with a lack of fiscal discipline, resulted in a substantial debt burden for Kenya. In the 2017 election, Kenyatta faced off against Odinga once again, ultimately prevailing by a narrow margin. The Supreme Court then made history by annulling the election, leading to a rerun that the opposition boycotted. Subsequently, the opposition embarked on a campaign of defiance against the government. In a surprising turn of events, Kenyatta then forged an alliance with Odinga in 2018 and eventually endorsed him as the presidential candidate for the 2022 election, running against Kenyatta's own deputy, Ruto.

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

In principle, the state has 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 lands (ASALs) of the north, with their low population densities, state and police presence is low, and the state's capacity to maintain law and order is minimal. Kenya's borders with its neighbors are porous, allowing transnational organized crime, illegal migration and the illegal arms trade to flourish.

Several high-profile terrorist attacks on Kenyan soil by the radical Islamist terrorist group al-Shabaab have been linked to porous borders – including attacks on the Westgate shopping mall in Nairobi in 2013, Garissa University in 2015 and Dusit Hotel in Nairobi in 2019. The group remains the main threat to the government's monopoly on the use of force, declaring its intention and occasionally demonstrating its ability to attack state installations and foreign interests, particularly in Nairobi and along the Kenyan coast. Despite government efforts, attacks on police and military patrols and installations have continued in Mandera, Wajir, Garissa and Lamu counties. In August 2022, al-Shabaab militants started employing more sophisticated weaponry, firing several mortar rounds at a military base and deploying artillery for the first time since 2018.

Armed banditry and cattle rustling are common in about 12 of Kenya's 47 counties – an area covering more than half of the country's territory. Such banditry-related violence increased by 139% in 2022, with over 170 incidents of political violence and 193 reported fatalities. These areas are highly vulnerable to climate variability and drought, leaving communities with persistent food insecurity and limited livelihood opportunities. Ethnic rivalries, political interference and inadequate policing keep some communities trapped in a vicious cycle of insecurity.

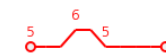
Kenya is currently hosting more than 550,000 refugees and asylum-seekers, primarily from Somalia, with the remaining majority from South Sudan, the Democratic Republic of the Congo and Ethiopia. The Kenyan authorities claim that the camps serve as a hideout and breeding ground for al-Shabaab terrorists, as well as an

Question  
Score

Monopoly on the  
use of force

5

'06 '24 10



1

environmental and economic burden. An announcement was made in March 2021 that the Dadaab (northeast) and Kakuma (northwest) camps would be closed, with the ostensible deadline later extended to June 2022. However, the decision had not been implemented as of the end of the review period.

Since independence, most major groups in society have recognized the Kenyan state as legitimate, with a few exceptions, including certain indigenous and marginalized communities, particularly the secessionist Kenyan Somalis in the 1960s. In theory, all groups and individuals possess the right to obtain citizenship without discrimination. However, in practice, certain groups, such as ethnic Nubians and Somalis, encounter significant challenges when obtaining identity documents and often face additional burdens of proof, leading to at least temporary denial of complete citizenship rights. In recent years, Kenya has taken measures to address statelessness by granting citizenship to minority groups originally from other nations. In 2021, the Shona people were given citizenship, while in December 2022 the government announced its intent to grant citizenship to the Pemba people. Nonetheless, there are thousands of stateless individuals of Galjael, Burundian, Congolese, Indian and Rwandan origin.

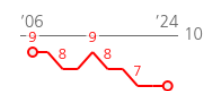
The previous centralized system of government led to complaints about the marginalization of certain areas and the preferential treatment of others. While devolution has mitigated some of the previous grievances, the ethno-politicized nature of Kenyan politics, as well as the winner-take-all nature of the presidential election, has typically left the losing side disgruntled. Following the 2017 election defeat, some politicians allied with the National Super Alliance (NASA) called for secession. While no such statements were made following the 2022 elections, feelings of discontent remain.

The Mombasa Republican Council (MRC), founded in 1999, continues to advocate for the secession of Mombasa. MRC members have been associated with violence since the 2013 elections. Leading up to the 2022 election, 81 MRC members were arrested for taking oaths to assume control of the country's leadership.

Since independence, religious dogma has not affected the legitimacy of the state. Kenya is a multifaith state, with over 85% of the population being Christian, approximately 11% Muslim and the remainder including Hindus, Sikhs, Bahais and those practicing traditional beliefs. The constitution recognizes the Kadhi courts, which have jurisdiction over specific civil matters pertaining to personal status and inheritance based on Islamic law. The High Court has jurisdiction over civil and criminal cases, including appeals from the Kadhi courts. Although the Kadhi courts predate Kenya's independence, their inclusion in the draft constitution, combined with strong opposition to the article on abortion, led Christian churches to campaign against the draft in 2010. The continued influence of religious groups has also negatively impacted efforts to introduce reproductive health legislation in Kenya. Similarly, the debate on the legality of same-sex relationships and marriage has been significantly influenced by religious beliefs.

#### State identity

7



1

#### No interference of religious dogmas

7



1

In addition, certain political institutions in Kenya have faced criticism for being influenced by religious leaders and organizations. This criticism arose in September 2022 when President Ruto held a Christian church service at State House to commemorate his election victory, and again when Cabinet Secretary Aden Duale ignited a debate regarding Muslim women wearing the hijab in public.

As ethnicity and religion often overlap, human rights groups and prominent Muslim leaders have criticized the government's counterterrorism efforts, which disproportionately affect Muslims, especially ethnic Somalis. Interfaith relations have improved significantly over the years through extensive interfaith dialogue.

In Kenya, basic administrative structures exist to provide justice, taxation and law enforcement, as well as the management of communications, transport and basic infrastructure, such as water, education and health services. However, the quality and effectiveness of these functions can vary from region to region and locality to locality. In general, Kenya provides electricity for 71.4% of the population, according to the World Bank. Kenya ranks above many sub-Saharan countries in this regard.

County governments were established to bring service delivery closer to the people, and they have clearly made significant improvements in this regard, particularly in peripheral areas. While the right to adequate housing is acknowledged in the constitution, the daily experiences of the poor serve as a stark reminder of the widespread issue of inadequate housing. Informal settlements, predominantly found in urban areas, are characterized by insecurity, deficient infrastructure and basic services, and overcrowding. Despite these challenges, it is projected that by 2030, approximately 30 million Kenyans will reside in urban areas.

The management of communication and transport infrastructure is the responsibility of both the national and county governments. Kenya has a well-developed road network, with major highways linking different parts of the country. The government has also invested heavily in developing the railway system, with the Standard Gauge Railway linking Mombasa to Nairobi and other parts of the country. In terms of communications, Kenya has a vibrant telecommunications sector, with widespread access to mobile phone networks and the internet.

Kenya has a well-established legal system that provides jurisdiction and law enforcement at both national and county levels. The judicial system includes several courts and tribunals responsible for interpreting and enforcing the law. Additionally, the Kenya Revenue Authority is accountable for tax collection, while law enforcement agencies such as the Kenya Police Service and the Directorate of Criminal Investigations are responsible for maintaining law and order.

The responsibility for providing basic infrastructure services such as water, education and health care lies primarily with county governments. However, the quality and availability of these services varies among counties and localities. While certain counties have made investments to enhance these services, others continue to encounter challenges such as limited funding, inadequate resources and insufficient infrastructure.

Basic  
administration

5

'06 '24 10



1



Kenya is a water-scarce country with declining water resources, both with regard to quantity and quality (World Bank, 2022). The government is struggling to provide clean and safe drinking water, and demand for the resource is becoming a driver of conflict. Urban populations are not guaranteed a steady supply of water and often have to pay exorbitant prices to private vendors. According to UNICEF, only 59% of Kenyans have access to safe drinking water, and just 32.7% have access to basic sanitation. Additionally, food security in the country has continued to deteriorate, further exacerbated by the effects of climate change. This has particularly impacted the approximately 70% of schoolchildren in Kenya who reside in rural areas, where there is a shortage of well-funded schools, trained teachers, and books and supplies (World Bank, 2022).

## 2 | Political Participation

Kenya has held elections approximately every five years since gaining independence. The reintroduction of multiparty politics in 1991 saw the growth of political parties, but these primarily mobilize based on the instrumentalization of ethnic identities. This often results in the looming threat or actual use of violence during every election.

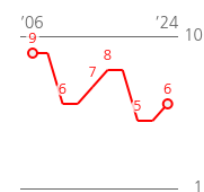
Elections in Kenya are high-stakes affairs. Winning an election not only provides an attractive salary and benefits, but also access to power and patronage, paving the way for immense personal enrichment. Party nominations are often hotly contested and fraught with allegations of rigging and unfair practices. Candidates know that securing the ‘right’ party nomination in their area eases the path to victory on election day. Election spending is among the highest in the world, which has a negative impact on participation, as capable candidates without access to significant resources are increasingly excluded from politics. The media is biased in favor of certain political parties or candidates, giving them more coverage or more favorable coverage.

The Independent Electoral and Boundaries Commission (IEBC) was established by the 2010 constitution, but all three presidential elections it has overseen (2013, 2017 and 2022) have been disputed. Nevertheless, it has overseen elections for all other electoral posts without any major concern, with disputes arising from the process being resolved in the courts and accepted by the parties. Following the annulment of the 2017 election by the Supreme Court, which found that the tabulation procedures employed by the IEBC failed to fulfill the constitutional requirement that elections be “simple, secure, transparent and verifiable,” the 2022 elections marked a considerable improvement in performance, especially in the area of transparency.

The Azimio coalition disputed the 2022 presidential results, however, and filed an electoral petition before the Supreme Court. The IEBC was vindicated by the court, which, in a unanimous decision, dismissed the petition on all counts. Nevertheless, IEBC’s role as a neutral arbiter of the electoral process suffered a setback after it witnessed a major split among its commissioners. Four out of seven commissioners

Free and fair elections

6



walked out before the chairperson’s announcement of the 2022 presidential election results, claiming that the counting and verification process had been opaque. In the aftermath, the various camps have traded accusations of impropriety, leaving much work to be done in rebuilding the image of the IEBC.

Although there are no traditional veto powers, the effectiveness of governance has been severely hampered by friction, tension and infighting within governments, as well as the persistence of what Kenyans describe as “cartels” since 2003. Clientelism and nepotism are widespread in government, and access to opportunities such as land and government contracts depends on one’s proximity to powerful persons within the regime.

Dissidence is addressed through overt or covert witch-hunts, prosecution or threats of prosecution, or by leveraging the system to remove targets from positions of political responsibility. Corrupt, self-serving politicians attempt to interfere with legislation and some key institutions, such as the EACC. The dysfunction that characterized Kenyatta and Ruto’s previous terms in office spilled over into the legislature and independent agencies. The notorious disputes between Director of Public Prosecutions (DPP) Noordin Haji and the head of the Directorate of Criminal Investigations (DCI), George Kinoti, exemplify this. County government institutions generally fulfill their mandate, but there are partisan individuals within the local administration who possess effective veto power.

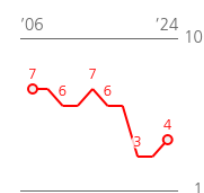
The constitution guarantees the freedom of association and assembly. Several laws impact the exercise of this right, notably the Public Order Act. This act regulates demonstrations through a notification procedure that requires advance notice of between three and 14 days. It empowers the police to prevent a public assembly if they deem it appropriate. The courts have emphasized that this provision does not authorize the police to restrict the exercise of the right. Rather, it serves as a means of notification, ensuring that the demonstrations run smoothly and that public order will be maintained. However, failure to give notice transforms a public gathering into an unlawful assembly, which is punishable by law. Consequently, this effectively criminalizes spontaneous demonstrations and has been utilized by the police to disrupt protests that might embarrass the government.

The police response to protests has been mixed. The police have shown themselves capable of acting within the law, but there have been numerous cases of excessive force. The killing of baby Samantha Pendo, who was beaten by police, sparked public outrage and became a symbol of police brutality following the crackdown on post-election protesters in 2017. In November 2022, the DPP charged 12 senior police officers with crimes against humanity, alleging their role in directing the brutal police response during the 2017 protests.

Kenya has a large, vibrant and engaged civil society. For the most part, civil society organizations are free to operate and cooperate with foreign partners. However, the last decade has seen an increase in attempts to curtail the exercise of civil liberties and an erosion of civic space. This has particularly affected groups critical of the government or working on sensitive issues such as human rights.

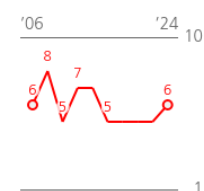
Effective power to govern

4



Association / assembly rights

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Freedom of the press exists in Kenya. There is considerable diversity of published opinion from mainstream news sources, independent outlets, blogs and social media. Sites such as Facebook and Twitter are subject to minimal censorship, and the government does not participate in internet shutdowns. However, ownership of media outlets is concentrated in the hands of a few powerful individuals and organizations, which can limit the diversity of perspectives represented. The legal environment in which the media operates is also complex. Although the 2010 constitution in theory guarantees freedoms of expression and of the press, several laws in fact restrict and violate these freedoms. Attempts to pass draconian laws and amendments to existing laws, such as the Parliamentary Powers and Privileges Bill 2015, have so far failed, often due to the judiciary striking down the proposed legislation. However, the Kenyatta government successfully enacted laws that give the executive sweeping powers to restrict public information and to fine or imprison journalists. This has seriously undermined media freedom.

Journalists reporting on certain cases – particularly those related to the ICC, corruption, and extrajudicial killings – face serious threats, leading to increased self-censorship. The make-or-break nature of Kenya’s elections has also made it increasingly difficult to cover them. Profiling, in which journalists are accused of bias because of the media houses they represent, has become common. Denial of access to events by politicians, personal attacks and the sexual harassment of female journalists have also been reported. Several politicians and people close to them have acquired stakes in media organizations, raising real questions about their independence. Despite these challenges, Kenya improved from 102nd (2021) to 69th out of 180 countries in the 2022 World Press Freedom Index.

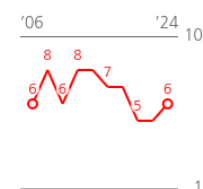
### 3 | Rule of Law

The 2010 constitution sought to reduce the powers of the executive. It reintroduced a two-tier legislature – including the National Assembly with broad functions, and the Senate, whose functions are limited to matters affecting county governments. This has led to turf wars and misunderstandings about the two houses’ respective roles. Failure to toe the line of the executive has led to the removal of legislators from leading positions in parliament or accusations of impropriety. This trend is likely to continue. The approval of cabinet nominees by parliament, despite questions about their competency and potential ethical issues, raises serious questions about its independence.

The judiciary’s strengthened role has greatly enhanced checks on executive and legislative authority. In March 2022, the Supreme Court halted President Kenyatta’s attempt to amend the constitution through his BBI initiative. The proposed BBI amendments would have impacted Kenya’s governance structure by introducing 70 new constituencies, establishing new positions for a prime minister, two deputies and

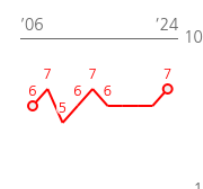
Freedom of expression

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Separation of powers

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an official leader of the opposition, and allowing cabinet ministers to be selected from among members of parliament. Following Ruto's win, he has shown interest in establishing the position of opposition leader. The Supreme Court's affirmation of the 2022 election outcome is also viewed as evidence of its independence from the government.

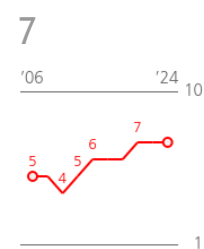
The judiciary has made significant progress in rebuilding its reputation from a weak, politically influenced institution to one that is generally regarded as independent. While it has gained the trust of the majority of the population, there are still several obstacles that cast a shadow on its reputation. Most notably, there are long delays in concluding court cases, limited access to justice for marginalized groups and a widespread perception of corruption (Afrobarometer, 2019).

However, the country has made some efforts to strengthen the independence of the judiciary, including the establishment of a Judicial Service Commission to oversee the appointment, promotion and discipline of judges and magistrates.

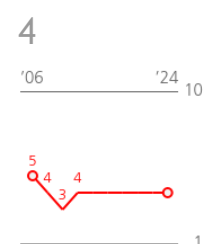
The Kenyatta government had a contentious relationship with the judiciary, making numerous attempts to undermine its independence. On multiple occasions, the government refused to comply with court orders that did not align with its own interests. One notable instance was the disregard of several court orders in the case of lawyer Miguna Miguna, who was deported in 2018 but was eventually permitted to return to Kenya during Ruto's government. Another example involved Kenyatta's rejection of recommended judicial appointments by the JSC in 2019. In June 2021, Kenyatta only officially appointed 34 out of the 40 judges, disregarding a court order to appoint the remaining six. As one of his initial actions in office, Ruto signed an executive order appointing the remaining six judges. Ruto has indicated that he wants to maintain a positive relationship with the judiciary, appointing new judges in December 2022 and pledging to increase its budget, which had previously been reduced under the prior administration. The lack of an autonomous budget remains a significant administrative weakness within the structure of the judiciary, with implications for its independence.

Kenya has a robust legal framework for prosecuting abuse of office, but both the judiciary and independent public institutions have proved unable to break the cycle of impunity. Politicians publicly denounce corruption and pay lip service to their commitment to eradicate it, but abuse of office remains widespread at all levels. In 2021, President Kenyatta estimated that Kenya was losing approximately KES 2 billion per day due to corruption. The number of cases brought against suspects is minimal when compared to the amounts stolen from public coffers annually. In February 2022, the Ethics and Anti-Corruption Commission (EACC) imposed the largest fine ever recorded in a case involving a former investment manager at the National Social Security Fund along with accomplices who were found guilty of conspiring to defraud the fund of KES 1.2 billion. The defendants were ordered to pay fines totaling KES 9.8 billion and, if unable to do so, to serve a prison sentence.

#### Independent judiciary



#### Prosecution of office abuse



Nonetheless, the impetus of the anti-corruption campaign under Kenyatta's administration has already begun to unravel under Ruto's leadership, with the director of public prosecutions (DPP) dropping several criminal and corruption cases. The politicization of the fight against corruption makes it difficult to establish whether the previous government was wrong to initiate cases or whether the current government is determined to save political cronies.

Chapter Four of the constitution includes a thorough and forward-thinking Bill of Rights, which is legally binding for state entities and individuals alike. Although some rights can be limited by legislation, the constitution explicitly declares that freedom from torture and slavery, along with the right to a fair trial and habeas corpus, are absolute. Additionally, the constitution bars discrimination based on race, ethnicity, gender, religion or political affiliation.

Kenya has also established several institutions to protect and promote civil rights, including the Independent Policing Oversight Authority (IPOA), the National Gender and Equality Commission, and the Kenya National Commission on Human Rights (KNCHR). These institutions are tasked with investigating and prosecuting violations of civil rights, providing redress to victims, and promoting education on and awareness of civil rights.

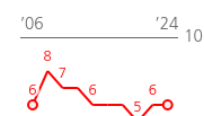
Kenya has also ratified several international treaties and conventions that safeguard civil rights, including the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Elimination of All Forms of Discrimination against Women.

In practice, numerous structural and systemic challenges hinder the complete implementation of the Bill of Rights. Extrajudicial killings and enforced disappearances continue to take place on a significant scale, with the slow pace of investigations and limited prosecutions of perpetrators contributing to a culture of impunity. In September 2022, the police's Special Services Unit was disbanded due to several cases of unexplained killings. This marked the third time in the last 13 years that a special police unit had been disbanded.

Discrimination based on gender, sexual orientation, ethnicity or religion is also a persistent problem in Kenya. Women, members of ethnic and religious minorities, and LGBTQ+ people are often marginalized and face barriers to accessing their civil rights, including discrimination in employment, education and housing. Although courts have upheld the rights of LGBTQ+ people in certain respects, in May 2019, the Kenyan Supreme Court refused to strike down sections 162 and 165 of the Penal Code, which criminalize gay sexual relations. Kenya has undertaken various legal and policy reforms to address discriminatory provisions against women and gender-based violence. In March 2021, the Supreme Court upheld the constitutionality of the

## Civil rights

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Anti-Female Genital Mutilation (FGM) Act. However, FGM remains widespread in certain areas. Women continue to be disproportionately disadvantaged in many aspects of public and civic life and are subject to discriminatory traditional practices, particularly in rural areas.

#### 4 | Stability of Democratic Institutions

The 2010 constitution comprehensively reshapes democratic institutions and the relationship between them by introducing a devolved democratic level of government, curtailing presidential powers, strengthening parliament and institutions, and establishing several independent constitutional commissions.

The 47 county governors, through their Council of County Governors, have become the new locus of power vis-à-vis the national government. Cases of power struggles and infighting between the executive and members of the county assemblies (MCAs) have increased. Since the introduction of devolution, there have been more than 10 impeachment proceedings against governors and their deputies by county legislative assemblies.

In December 2022, the Meru County Legislative Assembly impeached Governor Kawira Mwangaza just four months after he took office. With a few exceptions, most governors have survived impeachment in the Senate, including Mwangaza, but this has come at a cost. While impeachment plays an important role in holding governors accountable, the MCA has found over time that the threat or imposition of impeachment can shift the balance of power between the county executive and the legislature. It is also a means of gaining greater control over county resources, which are often at the center of disputes and disagreements at the county level.

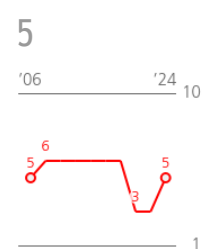
In addition to these impeachments, the new director of public prosecutions, Noordin Mohamed Haji, has brought a number of high-profile corruption cases. These cases have involved ministers, governors and directors of public companies.

All actors from the various branches of government, county governments, the national administration, interest groups, civil society and religious organizations accept the value of democratic institutions and respect for the rule of law in principle.

In practice, the rule of law is threatened by politicians, business leaders and cartel-like structures that seek to corrupt or manipulate systems for their own interests.

The military is firmly under the control of the executive and does not exercise veto power. However, during Kenyatta’s administration, he appointed several military officers to parastatals and other key government posts. Kenyatta sought to grant these officers further powers but was blocked by the courts.

Performance of democratic institutions



Commitment to democratic institutions



One example is the appointment of Kenya Air Force Major General Mohamed Badi as director general of the Nairobi Metropolitan Services (NMS), a body established by executive order in March 2020 to manage specific functions of Nairobi County. The executive order appointing Badi allowed him to take an oath of secrecy, which gave him the power to attend cabinet and cabinet committee meetings. A petition was filed in the High Court challenging his appointment and participation in cabinet proceedings. In a decision delivered in September 2021, the court concurred, stating that the executive order allowing his participation in cabinet was unconstitutional, since he had not undergone vetting and approval by parliament. This once again showcased the independence of the Supreme Court.

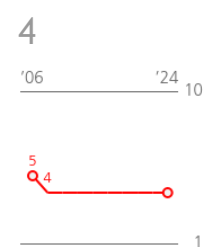
## 5 | Political and Social Integration

As of May 2022, there were 90 fully registered political parties in Kenya. To qualify for registration, parties must meet a number of requirements set out in the Political Parties Act of 2011. The party membership is meant to be regionally and ethnically diverse, as well as gender-balanced, with representation of minorities and marginalized groups.

In practice, political parties have a weak ideological base and struggle to aggregate interests expressed in social, cultural or economic terms. Instead, individuals utilize political parties and coalitions to channel and reshape their personal and ethno-regional interests and to mobilize the support of their ethnic communities. Consequently, political party formations align with and mirror the ethno-regional alliances constructed by political leaders. Politicians commonly employ patronage to sustain their support base, a practice that frequently engenders corruption and undermines party institutions.

A significant number of registered parties do not play a significant role in national affairs or even field candidates in elections. Political parties and coalitions remain temporary vehicles that serve the interests of their “owners” from one election to the next. Between elections, party activities are largely confined to their national headquarters and can hardly be said to represent localities. The party system remains unstable and dependent on the agreement of the various parties’ founders. As has been the case since 2002, the 2022 elections saw the disintegration of previous political alliances and the creation of new ones for electoral purposes. Most notable was Deputy President William Ruto’s shift from insider to outsider ahead of the 2022 elections. Ruto’s attempt to shift the narrative from tribal to class divisions represented a slight deviation from the ethno-regional positioning that may have contributed to his victory, particularly in areas of the Rift Valley.

Party system



There is a wide range of groups representing different interests in the country, including professional associations such as the Law Society of Kenya (LSK), 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. Civil society actors are present in various sectors such as education, health, environment, food and agriculture, among others.

Some pressure groups have a regional base, while others operate at the national level. However, certain organized interest groups and professional associations are prone to internal divisions along ethnic lines, reducing their potential for a unified response to government excesses. For example, the LSK, which has a storied past as a brave guardian of the law, has faced internal wrangling over the past decade – with ethnic divisions, allegations of corruption and political interference at the heart of the disputes. Pressure groups that could potentially use their 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, weak leadership and the political ambitions of their leaders. These challenges have severely undermined their legitimacy and have historically made it easy for the government to ignore their grievances.

While interest groups are politically important, their influence is uneven. There is scope for greater cooperation among the various interest groups to increase their impact.

According to the Afrobarometer survey, Kenyans' preference for democracy over any other form of government has increased steadily, with 67% of the population expressing this position in 2016, 75% in 2019 and 78% in 2022. Meanwhile, the percentage of Kenyans who do not view their country as a democracy or see it as a democracy with significant issues declined from 47% in 2012 to 22% in 2018, but this figure is projected to rise to 40% in 2022.

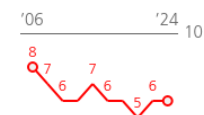
In an Afrobarometer pre-election survey, over half of Kenyans expressed limited trust in the IEBC, with 23% expressing “only a little” trust and 31% indicating that they did not trust this institution at all. This lack of trust persists even though 78% of Kenyans endorse regular, transparent and fair elections as the most effective means of selecting leaders.

A much smaller majority – 56% – believe that elections work well in allowing voters to remove leaders who don't do what the people want. In total, 78% also support the existence of many political parties to ensure that voters have a real choice in choosing their leaders.

The Afrobarometer survey shows that levels of trust in parliament, the presidency, the judiciary and the police are relatively low, with fewer than 50% of Kenyans expressing confidence in these institutions. Trust in the state bureaucracy, political parties, and the military is also relatively low, with fewer than 40% of Kenyans expressing trust in these institutions.

#### Interest groups

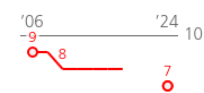
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#### Approval of democracy

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Ordinarily, numerous social and self-help organizations exist, albeit without an effective division of labor. Social cooperation is primarily organized within residential neighborhoods or workplaces and is constrained by financial and infrastructural limitations. Cooperation primarily arises as a response to immediate challenges such as the loss of a loved one or illness, rather than being strategically practiced to foster long-term involvement and social stability, for instance, by establishing an education fund.

Informal savings are still common throughout Kenya, especially in rural regions, which often remain without conventional banking services. Informal cooperatives and self-help groups are difficult to monitor, but they exist all over the country, particularly in rural areas and informal settlements in urban centers.

The absence of an effective universal public health insurance system, pension fund and other social safety nets means that citizens primarily depend on personal resources, their families and wider social networks for assistance during times of necessity. These networks function based on a similar principle as a public insurance model – individuals contribute because they recognize that they may also require assistance in the future – with WhatsApp groups emerging as an effective medium for mobilization.

Overall, the level of interpersonal trust is low among the population. Ninety-six percent of Kenyans argue that one should be very careful when dealing with other people. Conversely, 82% of Kenyans agree that heterogeneous societies are stronger than homogenous ones (Afrobarometer 2019). Ethnic groups in Kenya are largely tolerant (91%) of one another in everyday social life, but often depart from this norm when election cycles or issues of resource allocation and services are brought into the equation.

## II. Economic Transformation

### 6 | Level of Socioeconomic Development

Kenya's economy is the largest and most diversified in East Africa. Significant policy, structural and economic reforms have led to sustained economic growth and social development over the past two decades. However, Kenya's key development challenges remain poverty, inequality, climate change, persistently weak private sector investment, and the economy's vulnerability to internal and external shocks.

In addition, specific markers such as race, ethnicity, gender and place of residence have been demonstrated to marginalize individuals with regard to economic opportunities in Kenya. For instance, discrimination and limited access to education

#### Social capital

6

'06 '24 10



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#### Question

Score

#### Socioeconomic barriers

3

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and training often result in the exclusion of women, youth and people with disabilities from the labor market. Additionally, individuals residing in rural areas or informal settlements are more prone to suffer from poverty and exclusion than their urban counterparts.

Finally, the size of the subsistence economy is an indicator of exclusion in Kenya. Many people rely on subsistence agriculture or informal sector jobs for their livelihoods, which limits their access to social protection and other forms of support.

The COVID-19 pandemic has significantly exacerbated existing development challenges and increased the vulnerability of large parts of the population. But post-pandemic growth rates seem to promise a fairly quick economic recovery.

According to World Bank estimates, Kenya made significant progress in reducing poverty before the COVID-19 pandemic, with the rate of extreme poverty declining from 45.2% in 2009 to 34.4% in 2019. The pandemic crisis, however, resulted in an increase in this rate to 35.7% in 2020. Thankfully, the figures have since dropped to 34.3% in 2021 and 33.4% in 2022 and are projected to continue the trend of pre-crisis reduction.

In 2021, the country's Human Development Index (HDI) score of 0.575 places it in the medium human development category, with a rank of 152nd out of 191 countries. However, the inequality-adjusted HDI is 25.9% lower than the actual HDI. Kenya has a Gini coefficient of 40.8 (2015 estimate), which is expected to remain stable for several years, making it the most unequal society in the East African Community (EAC). The gap in wealth distribution has widened in recent years, with the richest 10% of people earning on average 23 times more than the poorest 10%, according to Oxfam.

Gender inequality remains a significant challenge in Kenya, driven by gender-based violence, underrepresentation in political decision-making circles and traditional household roles, among other factors. Kenya's score on the Gender Inequality Index was 0.506 in 2021 – well behind neighboring Rwanda but ahead of all other countries in East Africa.

Compared to previous years, Kenya made slight progress in closing its gender gap in 2022. The country's Gender Gap Index score this year was 0.73, indicating that women were about 27% less likely than men to have an equivalent set of opportunities.

About two-thirds of Kenyan families are considered chronically vulnerable to poor nutrition, food insecurity and preventable diseases, with women, girls and marginalized rural communities disproportionately affected. Economic inequality continues to expose regional disparities, with poverty much more pronounced in the northeastern, eastern, coastal and western parts of the country.

Around 80% of Kenya's population lives in rural areas. Most of these individuals depend directly or indirectly on agriculture for their livelihoods and are thus exposed to increasing risks of drought and other threatening effects of climate change, as well as cost-of-living pressures caused by the war in Ukraine.

Economic indicators		2019	2020	2021	2022
GDP	\$ M	100378.4	100657.5	109703.7	<b>113420.0</b>
GDP growth	%	5.1	-0.3	7.6	<b>4.8</b>
Inflation (CPI)	%	5.2	5.4	6.1	<b>7.7</b>
Unemployment	%	5.0	5.6	5.6	<b>5.5</b>
Foreign direct investment	% of GDP	0.5	0.4	0.4	<b>0.3</b>
Export growth	%	-3.2	-14.9	15.3	<b>10.7</b>
Import growth	%	1.8	-9.4	22.2	<b>4.5</b>
Current account balance	\$ M	-5258.4	-4791.7	-5744.1	<b>-5765.5</b>
Public debt	% of GDP	59.1	68.0	68.2	<b>68.4</b>
External debt	\$ M	34968.8	38035.6	41201.5	-
Total debt service	\$ M	4492.9	2836.8	2449.4	-
Net lending/borrowing	% of GDP	-4.1	-5.5	-4.6	-
Tax revenue	% of GDP	15.1	14.3	13.3	-
Government consumption	% of GDP	12.2	12.5	12.1	<b>12.3</b>
Public education spending	% of GDP	4.6	4.6	4.6	<b>4.1</b>
Public health spending	% of GDP	2.0	2.0	-	-
R&D expenditure	% of GDP	-	-	-	-
Military expenditure	% of GDP	1.1	1.1	1.1	<b>1.0</b>

Sources (as of December 2023): 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

Since independence, Kenya has been theoretically governed on the basis of free market principles, while in practice, it has been subject to significant state intervention. The economy, once controlled by the government, is now predominantly driven by the private sector due to an extensive privatization program.

Nevertheless, state-owned enterprises still exist beyond the traditional infrastructure sectors, including in banking, wholesale and retail trading, and agro-processing. Despite progress, market competition still suffers from interference by politicians and their (family) networks, who seek to advance their own business interests or punish companies that cooperate with individual opponents or the opposition. The once-restrictive regulatory framework has undergone liberalizing reforms, which have eased market entry for new actors and improved the country's attractiveness for foreign direct investment (FDI).

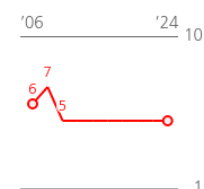
Within Africa, Kenya is one of the leading start-up ecosystems. An increasing number of foreign companies and investors are establishing local and regional operations in the country, primarily in the capital Nairobi. Business registration procedures have become faster and less complex. The transparency of permit procedures has improved, and there has been a modernization of infrastructure, particularly with regard to transportation, electricity supply and banking. These factors have contributed to improving conditions for private-sector business operations. However, the markets are still subject to shortcomings, including weak institutional structures and pervasive corruption.

Much of Kenya's economy is driven by the informal sector, which accounts for about one-third of GDP and employs more than 86% of the country's working population. Most businesses start in the informal sector because they cannot afford the cost of formal registration and the associated taxes. From a policy perspective, the government treats the informal sector as part of the category of micro and small enterprises, which are registered and form part of the formal economy. The Micro and Small Enterprises Development Act (2013) has significantly eased access to credit, providing a regulatory framework for the sector for the first time and promoting it as part of the government's Vision 2030 strategy. One of the Ruto government's top priorities has been to "create an enabling business and enterprise environment and support people in the informal sector to organize themselves into stable and viable business entities."

Prices are primarily set by market forces; however, the government has previously intervened to regulate the prices of essential goods such as food and fuel. To a limited degree, the cross-border movement of labor and capital is permitted, but restrictions on currency convertibility remain, which may deter foreign investment.

Market  
organization

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Kenya has a competition law known as the Competition Act, which was enacted in 2010 to promote and protect competition in the country. The act establishes the Competition Authority of Kenya (CAK) as an independent body responsible for enforcing the provisions of the act and the Competition Tribunal, which replaces the Restrictive Trade Practices Tribunal.

The Competition Act prohibits anti-competitive conduct such as abuse of dominance, mergers and acquisitions that may substantially lessen competition, and agreements between competitors that restrict competition. The CAK has the power to investigate and prosecute violations of the act and can impose penalties and fines on offending companies.

However, there have been concerns about the effectiveness of competition law enforcement in Kenya. The CAK has faced challenges in investigating and prosecuting cases of anti-competitive behavior due to limited resources, delays in court proceedings, and a lack of awareness of competition law among businesses and consumers.

In February 2021, the Competition Authority proposed a set of new guidelines to allow competitor collaborations for a period of two years in certain sectors with a high economic priority – including manufacturing, private health care, aviation, travel and hospitality, and health research – in order to help drive the post-COVID-19 economic recovery.

In February 2022, Kenya joined Egypt, Mauritius, Nigeria and South Africa in announcing plans to harmonize merger notification frameworks and information sharing as a means of enhancing cooperation in scrutinizing digital markets across Africa.

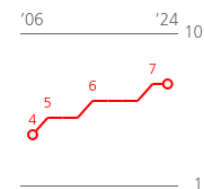
Kenya ranks as the second-best African country in terms of regional trade integration policies within the East African Community (EAC) and fourth within the Common Market for Eastern and Southern Africa (COMESA), according to the Africa Regional Integration Index Report 2019.

Kenya's performance with regard to regional infrastructure, productive integration, the free movement of people, and financial and macroeconomic integration is strong. The country is a member of the WTO and notifies the Committee on Technical Barriers to Trade (TBT) of draft technical regulations.

Kenya benefits from trade facilitation agreements through the World Trade Organization (WTO), the East African Community (EAC) Customs Union and Common Market Protocols, as well as the Common Market for Eastern and Southern Africa (COMESA) Protocol on Free Trade Agreements and the EU-EAC Economic Partnership Agreement.

## Competition policy

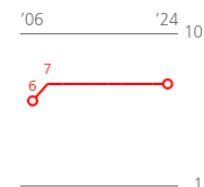
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## Liberalization of foreign trade

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In June 2022, the United States and Kenya announced the launch of the U.S.-Kenya Strategic Trade and Investment Partnership. Negotiations for a full free trade agreement had been initiated during the Trump administration but were not resumed under the Biden administration.

Kenya is among seven countries that have been selected to start trading under the framework of the Africa Continental Free Trade Area (AfCFTA) in a pilot phase to test the policy basis for intra-African trade. In September 2022, Kenya exported its first goods under AfCFTA to Ghana. In August 2022, Kenya launched its National AfCFTA Implementation Strategy, which identifies priority export products and sectors for goods and services aligned with the country's national development goals. To ensure effective coordination, an ad hoc National AfCFTA Implementation Committee was established, comprising government MDAs, the Council of Governors, private sector associations, relevant research institutions and NGOs.

Despite the commitment to open trade with EAC member states, Kenya has frequently erected nontariff barriers and engaged in trade wars with its neighbors. For example, there are still import quotas and export limitations in place, particularly for agricultural products. Additionally, the government provides subsidies for certain exports, such as cut flowers, which could be seen as a form of export subsidy. Although Uganda remains Kenya's main export market, frequent trade disputes over items such as poultry, sugar and milk have often soured trade relations.

According to the latest WTO World Tariff Profiles Report, the simple average of the most-favored-nation (MFN) applied total tariffs for Kenya was 16.3% in 2022, which is lower than the average for sub-Saharan Africa as a whole.

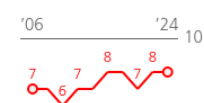
The Kenyan banking sector has experienced steady development over the past two decades. The sector is well differentiated, and Kenya aligns with international standards, with banks required to publish regular financial statements and adhere to international accounting standards. Moreover, the Capital Markets Authority mandates companies to disclose material information to investors in a timely and accurate manner.

The Central Bank of Kenya has a robust supervisory framework in place, with regular on-site inspections and off-site monitoring to ensure the financial soundness of banks. Additionally, the Central Bank possesses the authority to take corrective action when necessary, which may involve placing banks under receivership or administration.

However, inadequate state controls on the circulation of illicit cash, a lack of laws against the financing of terrorism, and a long tradition of political patronage facilitate money laundering through this active financial system.

Banking system

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Kenya has emerged as one of the world's most innovative markets for mobile banking technology. The economy and money market were revolutionized with the introduction of mobile money transfers (the M-Pesa system). By the end of 2021, 56.8% of Kenya's GDP was processed through mobile money services (with this figure projected to surge to 68% by the end of 2022).

In 2022, the banking sector comprised 38 operating commercial banks, one mortgage refinance company (KMRC), and 14 registered microfinance institutions that are licensed and regulated by the Central Bank of Kenya (CBK).

Coming out of the COVID-19 crisis, Kenya's banking sector remained stable and resilient, demonstrating sufficient capitalization well above statutory limits, with a total capital adequacy ratio of 19.5% at the end of 2021 (minimum capital adequacy ratio: 14.5%). The sector's liquidity reached an average liquidity ratio of 56.2%, surpassing the minimum statutory level of 20%.

The one-year emergency measures on the extension and restructuring of loans, announced by the Central Bank of Kenya (CBK) in 2020, ended in March 2021. The measures provided the intended relief to borrowers, supported the continued operations of businesses and strengthened the resilience of banks. At the end of the period, loans totaling 54.8% of the total banking sector loans had been restructured.

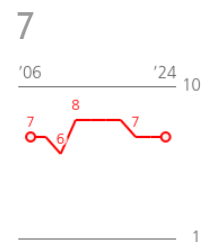
In 2021, total net assets grew by 11.4% to KES 6.0 trillion (from KES 5.4 trillion in December 2020), driven mainly by growth in investments in government securities and private sector gross loans that together accounted for 78.3% of the total assets. Customer deposits increased by 11.0% from KES 4.0 trillion in December 2020 to KES 4.5 trillion in December 2021.

The bank's capital-to-assets ratio stood at 12.1% in 2021. The share of nonperforming loans (NPLs) decreased from 14.1% in 2020 to 13.1% in 2021.

## 8 | Monetary and fiscal stability

The Central Bank of Kenya (CBK) pursues inflation and exchange rate policies in accordance with the government's economic policies (growth and price targets set by the government). The CBK is independent but has experienced some political interference in the past. This interference has put pressure on the bank to relax its monetary policy stance during election periods. Nevertheless, the CBK generally maintains a significant level of autonomy and seems to be less influenced by patronage and clientelism than other state institutions. It enjoys a relatively stable set of managers and primarily engages in technical and nonpolitical appointment processes.

### Monetary stability



The Kenyan shilling (KES) is not fixed. In 2022, the country's currency depreciated to its lowest level in seven years, making it harder for the state to repay its substantial dollar-denominated debts.

Kenya's benchmark stock index was the worst performer in Africa in 2022. The average annual inflation rate stood at 7.66% in December 2022. Twelve-month inflation declined slightly toward the end of 2022, after peaking at 9.59% in October 2022 – the highest level since May 2017. Inflation in Kenya is driven by a mix of internal and external factors. The lingering effects of the pandemic and Russia's war on Ukraine, which increased the cost of imports, were the main drivers in 2022.

In response to inflationary pressures, the Central Bank of Kenya raised the policy rate multiple times during 2022, to a high of 8.75% at the end of the year.

According to the AfDB, Kenya was already on a trajectory toward high levels of public debt before the COVID-19 pandemic. The pandemic and related shocks, followed by the impact of Russia's war on Ukraine, have only exacerbated the country's debt situation. As a result, the sustainability of the country's public debt remains a major concern.

In addition to the steady increase in the debt stock, the debt-to-GDP ratio and consequent cost of debt servicing, as well as the progressive shift in the debt portfolio in favor of high-cost commercial loans and bilateral loans observed in recent years (about 70% of which are held by China) are also causes for concern.

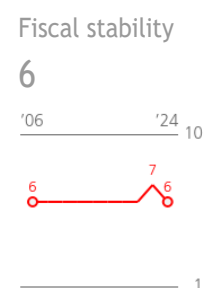
The IMF downgraded the country's external debt distress risk level from moderate to high in May 2020 and reduced its debt sustainability from strong to medium in April 2021.

Public debt stabilized at a high level of 67.8% of GDP in 2021, compared to 68% in 2020 and 59.1% in 2019 – all above the 55% threshold. The government reduced the budget deficit in 2021 – 2022 from 8.2% to 6.2% (World Bank data), through revenue measures and expenditure restraint. Total state revenues increased to 17.3% of GDP in 2022 from 15.7% in 2021. According to the World Bank, this reflects a pickup in domestic demand and a series of tax reforms, as well as improvements in tax administration and the use of technology, allowing for better harmonization and compliance.

The current account deficit in 2022 was \$5.5 billion or 4.9% of GDP, down from \$5.8 billion or 5.2% of GDP in 2021.

Kenya benefited from the G-20 debt relief program under the Debt Service Suspension Initiative (DSSI).

During the election campaign, President Ruto promised to reduce borrowing and promote small businesses as a means of boosting growth and generating revenue. However, by early 2023, his government was aiming to borrow KES 3.6 trillion in its first five-year term, reversing his plan to reduce debt. The increase in spending is tied to the so-called Bottom-Up Economic Plan, which proposes to channel resources into





sectors that can have a mass impact on job and wealth creation. In September 2022, the government gained more legal space to borrow after parliament raised the country's public debt ceiling to KES 10 trillion (\$100 billion). Ruto himself has repeatedly blamed his predecessor, Uhuru Kenyatta, for the government's massive borrowing.

## 9 | Private Property

In pre-colonial Kenya, property rights were based on patriarchal and group interests rather than individual interests. Land was held communally by local clans, and rights were limited to use only. Neither families nor communities could sell, subdivide, lease or rent land to others.

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

According to the Land Act of 2012, there are three types of land tenure systems in Kenya: public land, which is held in trust by the government; communal land, which is held by the community; and private land, which is held by individuals either as freehold or leasehold. These systems restrict the extent of land rights that individuals can have.

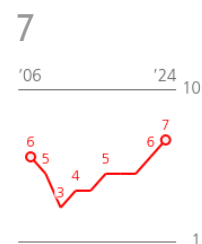
Landowners from different ethnic groups have often been viewed as "outsiders" by those who consider themselves "indigenous." This has sometimes led to conflict.

The Business Laws (Amendment) Act, which came into force on March 18, 2020, amended various laws to facilitate property acquisition in Kenya. Generally, the institutional and legal framework ensures the protection of individuals' property rights and outlines the procedures by which the government can acquire private property. The constitution ensures fair compensation in cases of compulsory acquisition of property by the government, and a legal framework has been established by the government to address property rights disputes.

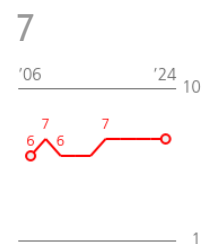
Kenya has a large, diverse and resilient private sector that contributes over 80% of the country's GDP and two-thirds of total employment. The government has taken steps to create a business-friendly environment, and there are several institutions that support the private sector.

In theory and in law, fair and equal competition between private and public enterprises is the rule. However, regular exceptions exist that offer protection for state enterprises. These exceptions can include guaranteed market shares, lower marketing hurdles and preferential access to government loans at lower interest rates.

Property rights



Private enterprise



The government grants foreign and local private entities the right to establish and own businesses and to engage in all forms of remunerative activity. Kenya's regulatory, business registration and licensing systems are relatively transparent. The business registration and licensing systems are fully digitized, and a computerization of other government processes is ongoing with the aim of increasing transparency and reducing opportunities for corruption.

State corporations continue to make significant contributions to economic development, but the majority of them are grappling with financial and governance issues. The implementation of a national strategy for parastatal reform, which aims to substantially reduce the number of parastatals (currently 260), has been delayed for several years. The National Treasury conducted a financial evaluation of 18 key state corporations in 2021, revealing the extent of the parastatals' crisis. Out of the 18 entities evaluated, only three were deemed profitable.

Kenya has also embarked on a process of privatization in various areas, including the telecommunications, electricity and banking sectors. The privatization process has generally been conducted in line with market principles, with the government selling state-owned assets to private investors through a competitive bidding process.

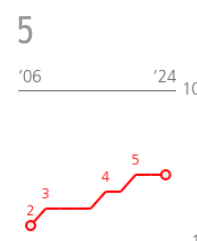
However, concerns have been raised about the transparency and fairness of certain privatization processes in Kenya. In certain instances, there have been allegations of corruption and favoritism in the selection of bidders. Additionally, questions have been raised regarding the valuation of state-owned assets and the terms of the sale agreements.

In recent years, the Kenyan government has taken steps to address these concerns and improve the transparency and accountability of the privatization process. For example, the government has established a Privatization Commission to oversee and manage the process, and it has introduced regulations and guidelines to ensure that the process is conducted in a fair and transparent manner.

## 10 | Welfare Regime

Kenya's national social protection policy has three pillars: social assistance (direct cash transfers to poor and vulnerable people), social security (pension schemes for workers in the formal and informal sectors), and health insurance (access to health services for all citizens). While significant progress has been made –partly reflected in a reduction in poverty and an increase in life expectancy (67 years in 2020, compared to about 51 years in 2000) – a number of challenges remain, including the lack of access to social and health services in (remote) rural areas, high rates of unemployment and underemployment, and a declining reliance on family and community-based social safety nets.

Social safety nets



The Kenya National Safety Net Program, established in 2013, provides a common operational framework for cash transfer programs targeting the elderly, people with disabilities, orphans, vulnerable children and people at risk of food insecurity (through the Hunger Safety Net Program). Prior to the COVID-19 pandemic, the program had significantly expanded the coverage of its cash transfers from 299,000 to 1.2 million households, reaching a total of 5 million people in 2019. According to UNICEF, 1.7 million households were reached with cash transfers in 2020, with additional transfers being mobilized to cushion the impact on the most vulnerable families whose livelihoods were affected by the economic impact of the COVID-19 pandemic.

Universal health coverage is a high-priority area of government policy. According to the World Bank, Kenya has made significant progress toward its goal (to be achieved by 2030), as the government has implemented various reforms and increased the allocation of resources to the health sector at both the national and county government levels. As a result of the devolution process, responsibility for social services has increasingly shifted to the local level, with county governments spending over 40% of their resources on social services. Public expenditure on health amounted to 4.59% of GDP in 2019. Per capita health expenditure has steadily risen over the past two decades, reaching \$83 in 2019 (compared to \$21 in 2000). However, there are still significant regional disparities in the quality and distribution of health care. While Nairobi has a high density and quality of health facilities, other parts of the country, particularly in the North Eastern and Coastal provinces, suffer from underdeveloped facilities; long distances to reach facilities; and shortages of staff, drugs and equipment.

There are two main types of pension schemes in Kenya: the National Social Security Fund (NSSF) and the Occupational Pension Scheme (OPS). The NSSF is a compulsory scheme covering all employees earning a monthly salary of KES 6,000 and above, while the OPS is a voluntary scheme established by employers to provide additional retirement benefits to their employees.

Under the NSSF scheme, both the employer and the employee contribute a percentage of the employee's salary to the fund. The OPS is, by contrast, established by employers to offer supplementary retirement benefits to their employees. Contributions to the scheme are determined by the employer and can be structured either as a defined benefit or defined contribution. Defined benefit schemes guarantee employees a specific retirement benefit based on their salary and years of service, while defined contribution schemes calculate the retirement benefit based on the contributions made by the employee and the employer, as well as the investment returns generated.

In addition to the NSSF and OPS schemes, there are personal or individually held pension plans.

The constitution guarantees equality and inclusion and requires parliament to pass legislation to operationalize these guarantees, but this is constrained by structural challenges. Consequently, certain groups are disproportionately affected by economic shocks and are more likely than others to be excluded from social services and the benefits of economic growth.

The introduction of free primary education has facilitated increased enrollment rates for both sexes, with a gross enrollment ratio of 103.2%. Overall, girls are more likely than boys to remain in primary school, transition to secondary school, and complete secondary school, but girls are severely disadvantaged in the arid and semi-arid regions of the north. The female literacy rate was 78.2% in 2018, compared to a male literacy rate of 85%. Women continue to have less access to and control over the benefits of land ownership, education and employment opportunities. The National Gender and Equality Commission (NGEC) has observed an increase in gender-based violence across the country. This has been partly attributed to the COVID-19 pandemic, the effects of which have generally disproportionately affected women.

Women also continue to be underrepresented in political decision-making circles. Despite a rise in the number of women elected in the August 2022 elections, Kenya still falls short of meeting a constitutional gender-quota principle that is meant to reserve one-third of seats in elective bodies for women. At present, women comprise 23% of the members of the National Assembly. In December 2012, the Supreme Court determined that the gender principle (established by the 2010 constitution) should be gradually implemented, allowing the legislature sufficient time to prepare the necessary regulations. Since then, the National Assembly has repeatedly failed to enact comprehensive implementing legislation.

The constitution and other laws protect the freedom of religion and prohibit religious discrimination. The constitution provides for special qadi courts to hear certain types of civil cases based on Islamic law. However, the 2021 Report on International Religious Freedom cites repeated complaints from human rights and Muslim religious organizations about ongoing discrimination against specific Muslim communities, particularly ethnic Somalis.

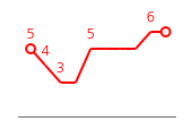
Kenya has made significant efforts to establish a legal and policy framework that fosters and safeguards the rights of older individuals in society. The constitution's Article 57 delineates these rights. Government stipends allocated to individuals with disabilities and older citizens assist in mitigating their susceptibility to exclusion from essential social services.

People whose sexual orientation does not conform to the “moral values” of the majority of the population often face social ostracism. There is no explicit protection against discrimination on the basis of sexual orientation or gender identity. Lesbian, gay, bisexual and transgender (LGBTQ+) individuals face legal challenges that non-LGBTQ+ citizens do not.

## Equal opportunity

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Discrimination against non-citizens is also an issue in Kenya, particularly for refugees and asylum-seekers who face limited access to education, employment and public services.

## 11 | Economic Performance

In the years before the pandemic, Kenya's economy achieved broad-based growth, averaging GDP growth rates of 4.8% per year between 2015 and 2019. This was a continuation of a positive trend over the previous decade, leading to the achievement of middle-income status in 2014.

The multiple crises of global and regional proportions – the difficult recovery from the COVID-19 pandemic, regional droughts and plagues, the escalating effects of climate change, and the impact of the Russian attack on Ukraine – posed significant challenges to Kenya's economic development over the course of 2022. However, Kenya's economy has shown a relatively high degree of resilience compared to most other African countries and consequently has a broadly positive outlook. The peaceful elections in August 2022 and the relatively quick resolution of the election-related disputes have contributed to a stable political environment, which is a prerequisite for sound economic management. However, the risks to the economy remain significant. While debt management, attracting private sector investment, expanding the labor market, and climate change adaptation and mitigation remain long-term priorities, Kenya's exposure to the global price effects of the war in Ukraine has added an element of uncertainty.

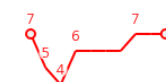
After the economic shock caused by the pandemic in 2020, Kenya's economy bounced back with an impressive recovery, growing at an annual rate of 7.5% in 2021. The Kenyan finance ministry forecasted economic growth of approximately 5.3% in 2022 and 6% in 2023, while the World Bank projected an average GDP growth of 5.2% for 2023/2024. In 2021, Kenya's GDP per capita (based on purchasing power parity) reached \$5,024, marking an increase from \$4,587 in 2020. The absolute GDP amounted to \$110.347 billion, up from \$100.666 billion.

Although Kenya is one of the largest recipients of foreign direct investment (FDI) in Africa, flows remain relatively weak given the size of its economy and level of development (0.4% of GDP in 2020), according to UNCTAD's World Investment Report 2022. FDI flows to Kenya have declined significantly in recent years, from \$1.464 billion in 2015 to \$448 million in 2021. Gross capital formation increased slightly to 20.3% of GDP in 2021 from 19.7% in 2020. The current account deficit was \$4.8 billion in 2020, compared to \$5.29 billion in 2019. The Central Bank of Kenya raised the policy rate several times during 2022 in response to inflationary pressures, to a level of 8.75% by the end of 2022.

Output strength

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Public debt stabilized at a high level of 67.8% of GDP in 2021, compared to 68% in 2020 and 59.1% in 2019, according to the World Bank. The government reduced the budget deficit in 2021/2022 from 8.2% to 6.2% (according to World Bank data) through revenue measures and expenditure restraint. Total revenues are expected to increase to 17.3% of GDP in 2022, up from 15.7% in 2021. The World Bank attributes this increase to a pick-up in domestic demand and a series of tax reforms, as well as improvements in tax administration and the use of technology, allowing for better harmonization and compliance.

Official figures indicate that the unemployment rate in 2021 was 5.7%. Nevertheless, these figures present an incomplete portrayal of the actual situation, as they fail to sufficiently capture underemployment and inactivity. The existing formal employment opportunities are inadequate to accommodate the expanding youth population, and a significant portion of Kenyans engage in vulnerable employment within the informal sector or rely on subsistence agriculture.

## 12 | Sustainability

Kenya's most pressing environmental problems include climate change, deforestation, poaching, soil erosion, water mismanagement and degraded water quality. The main drivers of resource degradation are population growth, low levels of agricultural productivity, poorly designed and managed settlement programs, and the lack of a comprehensive land policy prior to the new constitution.

The National Environment Management Authority (NEMA), established in 2002, has the mandate to coordinate all environmental issues. However, NEMA has been hindered by a lack of capacity, ongoing conflicts between its mandate and previous legislation, insufficient funding for environmental plans, and corruption.

The 2010 constitution sets out principles, obligations and guidelines for environmental management, reflecting a strong commitment to environmental conservation and rehabilitation. Since 2010, Kenya has been developing and refining a climate change response strategy, which is now based on the National Adaptation Plan for 2015 to 2030. Kenya has increased its overall target in its updated nationally determined contributions (NDC, 2020) plan, with a 32% reduction in greenhouse gas emissions compared to the 30% target communicated in the first NDC.

The country has made a conscious investment in sustainability. During his inauguration speech in 2022, Ruto reaffirmed the commitment to acquiring 100% of the country's energy from clean sources by 2030. Kenya is on track to meet this target, with over 90% of electricity generation currently coming from green initiatives, including geothermal, solar, biogas and power from the sugar processing sector. Kenya has also been hailed by the United Nations Environment Programme (UNEP) as a trailblazer in the fight against plastic pollution through its early adoption of policies and enforcement of laws against single-use plastics. President Ruto has made climate diplomacy a key priority in Kenya's foreign relations.

Environmental  
policy

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There has been significant investment in infrastructure, particularly in the rail and road networks. The process of transforming the transport sector to use buses rather than the current 14-seater matatus is underway.

However, devolution in Kenya has added to the challenge. While responsibility for implementing environmental policies has shifted to the county level, it has not necessarily been accompanied by a transfer of technical expertise and financial resources.

On the Environmental Performance Index (EPI), Kenya dropped 16 places between 2020 and 2022 and now ranks 148th out of 180 countries.

Kenya's education policy has resulted in an education and training system of average quality, with qualitative deficits at the secondary and tertiary levels, despite high enrollment rates. The Kenyan government covers the cost of universal primary education and secondary school fees, resulting in relatively high budgetary allocations compared to other East African countries. This has led to almost 100% primary school attendance and a successful rate of transition from primary to secondary school of 70% across the country. The country also has a number of vocational training centers and technical colleges offering training in a variety of fields. However, the education sector remains underfunded, and educational opportunities continue to be hindered by poverty and inequality.

At the tertiary level, Kenya has several well-established universities and colleges, such as the University of Nairobi and Kenyatta University. The government has also implemented policies to enhance access to tertiary education, including establishing new universities and introducing loan schemes to assist students in covering their education expenses.

The country's adult literacy rate was 81.5% in 2018, which, although still at the top end of the range in sub-Saharan Africa, represents a decrease from 82.5% in 2000. Nonetheless, Kenya boasts a highly educated workforce, which serves as one of its assets in its effort to reach middle-income status. Government spending on education fluctuated around 5% of GDP between 2016 and 2020.

School closures in 2020 due to COVID-19 restrictions affected nearly 18 million learners and put at risk the substantial progress the country had achieved in delivering inclusive, high-quality education. Nevertheless, despite these disruptions, the education sector persevered in its ongoing improvement. Prior to the pandemic, the government had undertaken ambitious reforms to enhance educational quality. As noted by the World Bank, these reforms have elevated Kenya to the level of one of the top performers in education throughout eastern and southern Africa. The significance of education was underscored by an increase in its allocation from 20% to 26% in the 2021 national budget.

Education policy /  
R&D

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In terms of research and development, Kenya was projected to allocate approximately 0.8% of its national GDP to research programs in 2020, according to UNESCO. The country has made notable efforts to bolster this sector, as exemplified by the establishment of the National Commission for Science, Technology and Innovation (NACOSTI). Furthermore, the government has formed various research institutions, such as the Kenya Medical Research Institute (KEMRI) and the Kenya Agricultural and Livestock Research Organization (KALRO). Collaboration between independent think tanks, international agencies, universities and research institutes is underway with the aim of enhancing research activities. However, universities continue to face significant financial constraints. While government grants are available to universities for various purposes, the specific allocation toward research remains unclear.

According to the United Nations Development Programme's (UNDP) Human Development Report 2019, Kenya's score on the U.N. Education Index was 0.534.



## Governance

### I. Level of Difficulty

Kenya has considerable economic and administrative potential, combined with traditional political stability and a comparatively well-educated workforce. However, poverty levels remain high. The population growth rate has slowed significantly, from 3.7% per year in the early 1980s to 1.9% in 2021, according to the World Bank.

At current growth rates, Kenya's population is expected to reach 75 million by 2040. Nearly 75% of the population is under the age of 35, which places a significant burden on the education system and the labor market, which are still not well linked.

The World Bank points out that GDP per worker is lower than in many other African countries. The low productivity of jobs – even in the formal sector – remains a key problem.

According to the Kenya National Drought Management Authority (NDMA), 23 of Kenya's 47 counties, together representing over 80% of the country's land area, are considered to be drought-prone. The impact of climate change, which has produced below-average or failed rainy seasons, is a severe structural constraint on the country's ability to meet national food demand and overall productivity needs.

This has been worsened in the last five years by plagues of locusts, fall armyworm and quelea birds, which have impacted food production. There is intense pressure on about 10.2% of the country that is considered arable. Land degradation and fierce conflicts over access to productive land between local pastoralists and farmers, fueled by political interests, have affected various regions of the country. In 2021, the drought has led to over 2.9 million people requiring urgent humanitarian assistance (UNOCHA).

The COVID-19 pandemic has had a significant impact on unemployment and underemployment, greatly affecting Kenya's growth. According to the Kenya National Bureau of Statistics, Kenya's unemployment rate doubled from 5.2% in the first quarter to 10.4% in the second quarter of 2020 as a result of the pandemic. Census data released at the end of 2020 revealed that out of 13,777,600 young Kenyans, 38.9% were unemployed, further widening the gap between the rich and the poor.

The global price impact of the war in Ukraine has contributed to the increasing unaffordability of basic food items, and together with other factors such as climate change, it has led to rising food insecurity.

Structural  
constraints

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Grassroots organizations across the country have long worked in communities and provided spaces for people to engage in public life. For a long time, grassroots organizations and the predominantly Nairobi-based civil society organizations (CSOs) were never really connected. It is only in the last decade that a variety of CSOs have slowly proliferated in provincial and county towns. While civil society has always engaged in issue-based policy debates and decisions, it has not proved immune to the political impact of ethnicity, as rifts and splits along ethnic lines have affected civil society’s influence and coherence, particularly around the highly polarized 2007 elections.

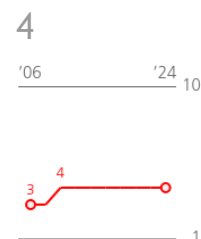
Kenya’s civil society is vibrant, with over 11,000 NGOs registered with the government. They play a significant role in various areas, including the recent response to the COVID-19 pandemic, land issues, peacebuilding, security, education, gender, health, extractive resources, agriculture, manufacturing, housing and trade.

Civil society has played a crucial role in building a democratic public sphere. Public interest litigation launched during Kenyatta’s last term helped to increase transparency, reduce government excesses, shine a light on the independence of the judiciary, and clarify aspects of electoral law and processes. However, many leading civil society activists have been co-opted into political coalitions, reducing the number of independent critical voices.

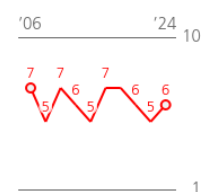
The return to multiparty politics brought long-standing but previously suppressed ethnopolitical cleavages to the surface. The conflicts initially took on the appearance of ethnic conflicts, but their nature was less ethnic than distributional. The prolongation of these conflicts over decades and the deliberate inaction of the political elite have changed their character. Although they play a lesser role in normal day-to-day life, Kenyans have become more ethnically aware and cautious, as the constant mobilization along ethnic lines during election periods has left its mark on the various ethnic groups’ self-images. The manifestation of these conflicts still depends heavily on political elites’ political alliances.

Unemployment and underemployment, the lack of security, and the weak rule of law are fueling the proliferation of criminal gangs and semi-militia in the slums of major cities, as well as in rural areas of the former Central Province and the Rift Valley. These groups operate semi-autonomously and are hired by politicians – especially around election time – to help them garner support and intimidate opponents. In addition, numerous regions are affected by resource and border conflicts that frequently escalate into violence. These regions involve the Tana River and a significant portion of northern Kenya, as well as Laikipia and Samburu. These areas are burdened by retaliatory raids between neighboring communities.

Civil society traditions



Conflict intensity



## II. Governance Performance

### 14 | Steering Capability

Kenya's long-term development priorities are outlined in the Kenya Vision 2030, adopted in 2008. Partly aligned with the global development goals of Agenda 2030 and the ambitions of the African Union's Agenda 2063, the development strategy aims to "transform Kenya into an emerging middle-income country by 2030, providing a high quality of life for all its citizens in a clean and secure environment."

The vision is realized through five-year medium-term plans (MTPs). The current, fourth MTP was prepared against the backdrop of the impact of the COVID-19 pandemic and other regional and global challenges affecting the country. It prioritizes the implementation of economic recovery strategies to reposition the economy on a steady and sustainable growth trajectory.

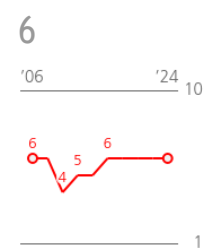
Vision 2030 has provided guidance to successive governments, and there are strong elements of continuity reflected in the prioritization of government policies. These policies include targets for improving productivity, private sector development and job creation, as well as universal health coverage, food security and affordable housing. A key prerequisite for progress is the continued rehabilitation and expansion of the country's physical infrastructure. This includes significant investments in road, rail and port systems, as well as the connection of road networks and rural electrification. Although land reform has been a recurring issue of political interest to Kenyans since independence, little or no progress has been made in this area in a way that addresses historical injustices.

Kenya's Vision 2030 focuses on three main pillars: economic, social and political development. However, progress in actual implementation and achievement is lagging in many areas. For example, the COVID-19 pandemic exposed years of underfunding in the health sector and weaknesses in social security. Consistency and efficiency in pursuing long-term development priorities have been undermined by widespread and endemic corruption, patronage, elite capture, and short-term political deals.

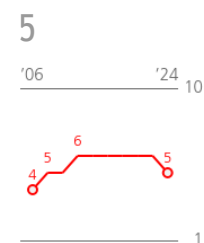
In 2013, the Jubilee government embarked on an ambitious and costly development agenda that required concerted efforts to increase government revenue while minimizing waste. The government invested heavily in infrastructure development as a means of unlocking economic growth. Unfortunately, these projects were mired in corruption and did not provide value for money when compared to similar projects in neighboring countries. The Big Four Agenda, launched during Kenyatta's second

Question  
Score

Prioritization



Implementation



term, identified four priority areas as a means of sealing his legacy, but implementation fell short. A key pillar of Vision 2030 is to achieve and sustain an average economic growth rate of 10% per annum by 2030. Actual growth rates have fallen short of the target, averaging between 4% and 6% over the past decade, well below the double-digit growth rate promised by the Jubilee government in 2013.

The government has shown considerable policymaking innovation and flexibility in recent years as it has aimed to tackle the complex and evolving challenges of advancing the country toward the desired middle-income status. For instance, the speed and integration of digitization within government systems and processes have aided in reducing bureaucratic obstacles, enhancing transparency and improving the ease of conducting business.

The capacity for policy learning has also been demonstrated through various measures, including the establishment of the Monitoring and Evaluation (M&E) Directorate within the State Department for Planning. The National M&E Policy was adopted in August 2022, defining mechanisms for measuring the efficiency and effectiveness of the implementation of all government policies, programs and projects.

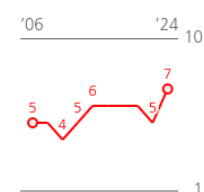
Learning opportunities in the form of benchmarking trips have also been adopted at the national and county levels, in addition to international cooperation and consultation with experts, with mixed results. For instance, a partnership agreement signed between Cuba and Kenya in 2017 would in theory allow Cuban doctors to share their expertise with Kenyan counterparts locally, and, in exchange, Kenyan doctors would receive specialized training in Cuba. However, the agreement has been mired in controversy. Kenyan health professionals have decried the high costs associated with the agreement, arguing that the money invested by the Kenyan government could have been put to better use by hiring and investing in doctors locally. As a result, they have called for the agreement to be canceled in 2023.

The government's approach to policymaking is often constrained by political considerations, competing interests and limited resources. For example, the Health Strategic Plan (2018 – 2023) has demonstrated progress and success in certain areas, such as the reduction of infant mortality. However, other areas have shown limited progress, and the sector still faces obstacles such as inadequate health financing, challenges in human resources, poor governance and wastage of available resources.

Government expenditure on health as a proportion of the total national budget has increased steadily over the years, reaching 11.1% in fiscal year 2020/2021, which remains below the Abuja Declaration recommendation of 15%. In FY 2022/2023, \$146.8 billion was allocated to the health sector, representing an increase in absolute terms compared to previous years.

## Policy learning

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The COVID-19 pandemic revealed several shortcomings and inefficiencies in the public health sector – lessons that should inform the next strategic health plan. In a sign of continuity, the Ruto government has maintained universal health care as one of its core pillars.

## 15 | Resource Efficiency

Kenya has been facing a severe resource crisis for several consecutive years. While the country was already on a trajectory toward high levels of public debt, the COVID-19 pandemic and the fallout from Russia's war with Ukraine have worsened the debt situation. Debt and the wage bill have reached almost unsustainable levels, and the government is operating with a budget deficit that it can scarcely finance.

Although Kenyatta and Ruto came to office promising to consolidate and rationalize the civil service, the public wage bill more than doubled during their 10 years in office – repeatedly violating Section 15(2)(b) of the Public Finance Management Act, 2012, which sets the threshold at 35%. Government measures to curb the rising wage bill have had little effect, especially as civil servants enjoy a wide range of excessive allowances, and the civil service structure is unnecessarily bloated, as positions tend to be created as a means of political reward and compensation. Politically motivated appointments continue to occur in all ministries, and recruitment to top positions is still driven by personal and ethnic loyalties. Competitive recruitment and meritocracy in the workplace are often undermined by short-term political considerations.

County governments have been transformed into an expanding network of patronage and clientelism through the creation of new ministries and departments. Despite some improvements in basic services, they continue to experience conditions of severe understaffing and underfunding. Furthermore, county governments also grapple with excessive public wage bills, allocating a significant portion of their budgets to salaries.

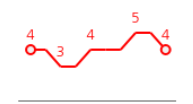
Typical of a neopatrimonial system, different styles of coordination prevail. The hierarchical-bureaucratic approach officially dominates but is often undermined by informal networks and the personalization of functional relationships.

Under the Kenyatta government, it became more feasible to integrate planning, coordination and policy prioritization into the policymaking process, as technocrats were consistently placed in strategic positions. However, there was still a tendency to appoint members of leaders' own ethnic communities to state enterprises, the civil service and public institutions. The new cabinet under President Ruto was criticized for lacking ethnic and regional balance. Observers also noted a shift from technocratic appointments to more political appointments under the new government.

Efficient use of assets

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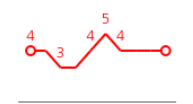


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Policy coordination

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Ruto's cabinet includes the newly created position of cabinet secretary, who is tasked with assisting the president and his deputy in coordinating and supervising government ministries; overseeing the implementation of national government policies, programs and projects; and leading and coordinating the national government's legislative agenda across all ministries and state agencies.

The devolution of government structures has created a new need for effective coordination. The former provincial administration has been transformed and integrated into the new devolved government structure to serve as the central government's representative at the district level. Conflicts mainly revolve around the issue of county security, which remains a national government function under the county commissioner with no formal role for the governor.

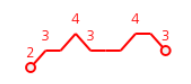
The battle against corruption is primarily a superficial endeavor used to pacify the public. Although a robust legal framework is in place, its implementation is weak. In accordance with the law, the Office of the Auditor-General regularly produces audit reports on government activities, and parliament scrutinizes budgets and expenditures. Additionally, candidates must disclose their assets before assuming public office, but these declarations often escape in-depth examination. Even individuals with raised ethical concerns have managed to attain positions in public office. Despite attempts to digitize and safeguard public procurement from corruption, it remains the primary channel through which government funds are squandered, both at the national and county levels. Conflicts of interest are rife, as civil servants, politicians, and their allies establish companies engaged in business with the government. Nevertheless, the case of former Kiambu governor Ferdinand Waititu, who faced corruption and abuse of office charges in early 2020, exemplifies the pattern of one step forward and two steps back in the fight against corruption. Despite the evident questions about Waititu's integrity, President Ruto appointed him to the Nairobi Rivers Commission in December 2022.

High-level individuals involved in large-scale corruption are still not prosecuted as often as low-level offenders. While there was some progress during the Kenyatta administration, the institutions created to fight corruption remain dysfunctional, largely because they operate within a complex system of patronage in which perpetrators are politically connected to the authorities. In the first five months of President Ruto's term, several corruption cases pending before the courts were reversed, with prosecutors choosing to withdraw or suspend cases. This is alarming, considering that only a small percentage of complaints received by the EACC result in prosecutions.

Anti-corruption  
policy

3

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## 16 | Consensus-Building

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. However, the strong ethno-regional polarization that characterizes Kenyan politics breeds mistrust and makes consensus-building difficult. Critics saw this as an opportunity to promote national unity and dispel the notion that a specific region would be “punished” for its vote. On the other hand, a more cynical reading saw it as an attempt by the president to win over the region in order to secure its future support.

Differences are also highly visible in the implementation of the constitution, as it affects the vested interests of the old and current elites. Consequently, implementation and application become contested areas in which elites strive to undermine and weaken constitutional provisions through the legislative process and the application of these laws. Numerous political and administrative positions are designed to benefit political cronies and specific ethnic groups at the expense of others, further complicating endeavors to build consensus.

The groups listed above also agree on the need for development and the importance of a free market economy. A reading of the manifestos of the two main coalitions in the 2022 elections shows that both focus on economic transformation and good governance. However, there are often irreconcilable differences when it comes to putting these principles into practice. These differences include ideological and practical disparities over what should be prioritized and why, such as the size and scope of social welfare programs.

There is no political force openly opposed to democracy and democratic reform per se. All political actors, both in government and opposition, are committed to the process of democratization. However, while they support these values at the national level, many political parties remain internally undemocratic. They are organized around ethnic kingpins who, once established, can remain at the forefront of national politics for decades. These kingpins employ different political formations to stay relevant, which results in emerging political actors or the youth wing within political parties being confined to the roles of faithful sycophants and henchmen. This perpetuates the patronage pipeline. Politicians have shown themselves to be opportunistic on several occasions, behaving in an anti-democratic manner when it suits their interests.

External actors frequently provide material or advisory support, influencing the direction and messaging of political actors. The use of digital platforms to disseminate political misinformation and disinformation is on the rise, as is happening in many regions across the globe. In both 2013 and 2017, the Uhuru-Ruto ticket relied on the British firm Cambridge Analytica for their messaging, a move that

Consensus on goals

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Anti-democratic actors

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critics condemned for its divisive nature and potential to stoke ethnic tensions. In Kenya, various actors, both domestic and foreign, have attempted to undermine democratic processes or political discourse, particularly when they perceive their interests to be in jeopardy. For example, in 2021, digital influencers in Kenya were paid to disrupt and manipulate online discourse after President Kenyatta’s family business was mentioned in the Pandora Papers.

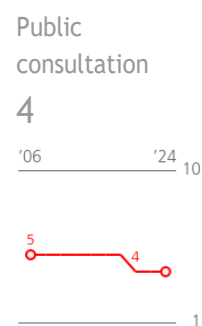
Kenya remains deeply divided along ethnic lines. Politicians turn personal power struggles into conflicts between ethnic communities, politicizing, manipulating and exploiting the differences between them. In times of reduced polarization, politicians have no interest in resolving these conflicts, preferring to keep them simmering for future exploitation. This is particularly evident in the contentious land issue in the Rift Valley. The disintegration of the Uhuru/Ruto alliance and Uhuru’s surprise endorsement of opposition leader Odinga is a case in point. The duo’s failure to address many of the root causes of the 2007/2008 violence raised fears of a flare-up of violence in the Rift Valley. However, this did not materialize, as Ruto won over much of the Kikuyu community in the 2022 elections.

Religious cleavages are not as visible as ethno-regional cleavages but have increased over the past decade, partly due to growing radicalization among coastal Muslims who feel marginalized by the central state. The war on terrorism and Kenya’s military intervention in Somalia (since 2011) to stop al-Shabaab attacks in Kenya have also contributed to these tensions. Despite these developments, interfaith relations remain harmonious.

As wealth increases, class divisions are becoming more pronounced. A recent Oxfam report cited Kenya as one of the most unequal countries in the world, with the richest 0.1% owning more wealth than the remaining 99.9% of the population. The emergence of a relatively well-off middle class does not hide the fact that millions remain in poverty. Unemployed and underemployed youth remain a ticking time bomb, especially if the economic policies of successive governments fail to deliver.

Article 10 of the constitution recognizes public participation as one of the national values and principles of governance. National and county parliaments are required to facilitate public participation in the legislative process and other parliamentary business. Public participation is also provided for in several pieces of legislation, such as the Public Finance Management Act.

The civil society sector has become more diversified and specialized in a wide range of areas, which the government and parliament use through various channels, including parliamentary committees. Civil society organizations (CSOs) have played an important role in ensuring greater scrutiny of government legislation and policies. However, many civil society actors are hampered by their donor-driven structure, which may affect long-term engagement or limit diversification into necessary but less attractive areas for donors.





An initial assessment of government agencies' implementation of public participation reveals that they are encountering challenges. It is not always clear that the public's perspectives are being collected and analyzed in a structured manner, and the extent to which their input influences public decision-making is often opaque. In certain instances, the notice provided has been insufficiently timed to allow for effective public engagement. Unsurprisingly, the matter of public participation in government planning and policymaking has frequently become the subject of litigation in the courts. Examples include the BBI (2021) case and the establishment of the chief administrative secretary position by the Public Service Commission. Clearly defined guidelines on how public participation should be conducted are necessary.

The perpetrators of the 2007/2008 post-election violence, which left more than 1,000 people dead and hundreds of thousands displaced, have never been prosecuted. Attempts to establish an international crimes division of the High Court, which would have prosecuted such violations, have failed.

The Truth, Justice and Reconciliation Commission (TJRC), established in 2008, has made progress in establishing a record of historic human rights abuses. Despite intense internal conflict and shortcomings, the TJRC report not only identified many individuals responsible for previous offenses and those who benefited from them but also provided detailed recommendations on how the government, stakeholders and society should address these crimes. However, by the time the report was presented to newly elected President Kenyatta, the momentum for justice and truth had faded, replaced by a new emphasis on restoration. Given that the report implicates numerous present-day political leaders in past crimes, it remains untouched and is likely to remain so for a significant period of time.

After 2017, the BBI initiative was perceived by the political class as a way to pursue national cohesion without confronting the ongoing historical injustices that still shape present-day discussions. Although the initiative failed, the underlying idea persists that when ethnic leaders reconcile at the political level, their communities are inherently encompassed within these agreements. However, unresolved historical injustices and ethnic disparities are likely to fuel future conflicts.

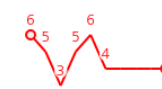
## 17 | International Cooperation

Kenya has steadily decreased its dependency on foreign aid. Concurrently, it remains committed to implementing its medium-term plans in order to accomplish its Vision 2030. An analysis conducted by Development Initiatives on disbursements to Kenya from 2018 to 2020 reveals that funding from both bilateral and multilateral donors was inconsistent, featuring both upward and downward trends. Moreover, there has been a shift in the aid landscape toward loan-based assistance rather than grants, with a decline in bilateral grants and an increase in loans from international financial institutions (IFIs).

### Reconciliation

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### Effective use of support

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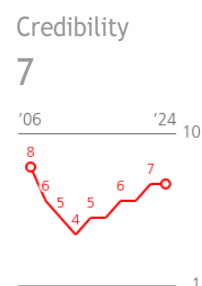
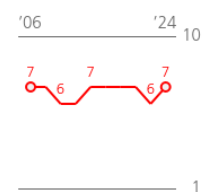
According to the National Treasury, as of December 2022, multilateral donors accounted for approximately 48% of Kenya's external debt, with the remaining balance equally distributed between local commercial banks and bilateral partners. Japan and China emerged as the primary contributors in this regard. In the health sector, Japan has been one of the major donors, alongside the United States. Japan has entered into loan agreements with Kenya to assist in realizing its health policy goals, specifically the attainment of universal health coverage as outlined in the government's Medium Term Plan III and Kenyatta's Big Four Agenda. This assistance has been provided in the form of general budget support.

However, China has surpassed all other bilateral partners to become Kenya's largest trading partner and credit provider. The trade balance is in favor of China, as 97% of trade comes from imports from China, while only 3% constitutes exports. Kenya is heavily indebted to China, as it has obtained loans for the construction of key infrastructure projects. During his presidential campaign, Ruto criticized his predecessor for accumulating Chinese debt and pledged to reduce borrowing, ensure transparency in contractual agreements and expel Chinese individuals occupying jobs meant for Kenyans. Since assuming office, however, Ruto has adopted a more conciliatory stance, considering his limited fiscal flexibility and the investment and trade relations between the two nations.

Kenya has maintained active membership in numerous international organizations. It held the chairmanship of the United Nations Conference on Trade and Development (UNCTAD) until September 2021 and pursued, albeit unsuccessfully, leadership positions in the World Trade Organization (WTO) and the African Union. Additionally, Kenya occupied a nonpermanent seat on the United Nations Security Council from 2021 to 2022, during which it made several significant interventions, including a passionate speech addressing Russia's proposed invasion of Ukraine.

Kenya's envoy to the United Nations played a key role in developing and securing a diplomatic breakthrough for the new Sustainable Development Goals (SDGs) in 2015, receiving widespread praise for his contribution. Kenya is collaborating with Global NDC Implementation Partners (GNI+) to implement its nationally determined contribution (NDC) to the Paris Agreement on climate change. The country seems firmly dedicated to fulfilling its commitments outlined in the agreement.

Economically, the country continues to gain international recognition for its economic transformation. The International Monetary Fund (IMF) and World Bank see the country as being on track to strengthening and broadening its economic growth capacity through substantial debt-financed investment in the country's infrastructure. However, the IMF has stressed on several occasions that the country's debt is at risk of becoming unsustainable.



On human rights, Kenya has frequently been in the spotlight for its lack of cooperation with the ICC, both with regard to cases pending before the court and the surrender of suspects accused of witness tampering following the collapse of the Kenyan cases. Human Rights Watch has criticized the country for its failure to hold security forces responsible for severe human rights abuses, such as extrajudicial killings and enforced disappearances.

Nairobi is still a central hub for numerous international non-governmental organizations (NGOs) and multilateral bodies that operate throughout Africa.

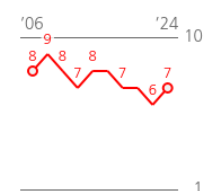
Kenya is a member of all relevant regional organizations. For decades, Kenya has been perceived as a constructive and mainly neutral force, as well as a mediator seeking solutions to the numerous crises that have impacted the Horn of Africa and the broader East African region.

Kenya held the chairmanship of the East African Community (EAC) from 2021 to mid-2022. During this period, the Democratic Republic of the Congo (DRC) became a member of the community, and efforts were made to advance Somalia's pending membership. Kenya's relationship with Tanzania improved as President Samia Suluhu Hassan softened some of her predecessor's protectionist policies. This reconciliation between the two countries led to the resolution of several nontariff trade barriers. While the trade disputes over milk that have characterized Kenya-Uganda relations since the 2019 ban on the product have not yet been resolved, negotiations have gained new momentum with Ruto assuming the presidency. In December 2021, prohibitive taxes on Ugandan poultry products were lifted, but a new tariff was introduced six months later, indicating that the issue is still not fully resolved.

Ruto has signaled an integrationist approach in his regional strategy. He began his term by appointing his predecessor, Kenyatta, as a peace envoy to the DRC and Ethiopia and made official visits to all neighboring states in his first 100 days in office. As part of the political peace process, a contingent of Kenyan troops was also deployed to the DRC to join the East African Community Regional Force (EACRF).

#### Regional cooperation

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## Strategic Outlook

Looking ahead, Kenya will face several challenges. First, it will have to deftly manage the aftermath of yet another disputed election. Although the Supreme Court ruled in favor of Ruto, the political fallout is far from over. In the weeks following the election, Odinga persisted in his claims that Ruto was illegitimately in office, raising the stakes for a political showdown. However, the central issue remains the credibility and integrity of the electoral process, which has been the subject of public bickering and mistrust among commissioners, with allegations of political interference, state intimidation and disinformation campaigns. How Kenya manages this conundrum will determine whether it can maintain its hard-won stability and remain attractive to investors. Strengthening the independence and credibility of the Independent Electoral and Boundaries Commission (IEBC) will require political goodwill, a bipartisan approach in parliament and extensive consultation with civil society. The September 2022 Supreme Court ruling outlined several measures for strengthening the IEBC, which the government and relevant institutions should ensure are implemented before the next elections.

Second, while Kenya's economy remains vulnerable to both internal and external shocks, there has been a noticeable transformation over the past 20 years, with economic growth rates averaging between 4% and 7%. This has made Kenya one of the fastest-growing economies in Africa, although growth remains below the Vision 2030 target of 10%. Although Kenya has been economically successful, some structural difficulties remain, including the rampant corruption that characterized Kenyatta's and his predecessor's administrations. The effects of climate change continue to affect the agricultural sector and livelihoods and are also becoming a major driver of conflict over resources. Kenya faces a high public debt burden (67.3% of GDP in 2021/2022), with the government expected to spend around 60% of its revenues on debt servicing in 2022/2023. In line with IMF advice, the government has embarked on cost-cutting measures, including the removal of fuel and food subsidies, and is increasing revenues by broadening the tax base and improving tax collection. The government needs to continue with fiscal consolidation measures, in addition to reducing waste and inefficiency in the public sector and curbing corruption by strengthening and supporting the work of the relevant independent institutions.

Third, the effects of climate change continue to have a significant impact on Kenya's rain-fed agricultural sector. Kenya is currently facing the possibility of a sixth failed rainy season, resulting in negative consequences for both food security and livelihoods, as well as exacerbating security concerns. In the long term, the government will need to allocate increased resources toward climate change adaptation strategies, while also diversifying the economy away from its heavy reliance on agriculture and toward the development of manufacturing and service sectors, particularly the rapidly expanding IT industry. Moreover, the government should prioritize the implementation of innovative, community-led solutions to security issues, potentially leveraging the extensive digital connectivity in the country. Additionally, there should be increased investment in law enforcement to effectively address the growing frequency of incidents of cattle rustling, banditry and conflicts related to resources.

Fourth, while unemployment and underemployment remain problems, a significant proportion of Kenya's workforce works in precarious conditions in the informal sector or in subsistence agriculture. Although the economy has been growing steadily, the average citizen has not experienced real benefits. To address this issue, the government has introduced the Hustler Fund, a program that offers easy credit to individuals and will soon expand to include small and medium-sized enterprises (SMEs). However, further actions are necessary to promote policies supporting inclusive economic transformation and long-term resilience, as well as to create a business environment that is more conducive to SMEs.

Finally, as Ruto took office, he signaled an integrationist approach in his regional strategy – providing an opportunity to breathe new life into the region. Improving relations with Kenya's neighbors and development partners remains key to enhancing Kenya's security, trade and investment prospects.