

Freedom House

Freedom in the World 2022 - Kenya

Partly Free

48

/ 100

[Political Rights](#) 19 / 40

[Civil Liberties](#) 29 / 60

Last Year's Score & Status

48 / 100 Partly Free

Global freedom statuses are calculated on a weighted scale. [See the methodology.](#)

Overview

Kenya holds regular multiparty elections. However, pervasive corruption and brutality by security forces remain serious problems. The country's media and civil society sectors are vibrant, even as journalists and human rights defenders remain vulnerable to restrictive laws and intimidation.

Key Developments in 2021

- In October, President Uhuru Kenyatta lifted a nationwide curfew which had been in place since the beginning of the COVID-19 pandemic. Kenyatta did not lift a ban on public assemblies, however.
- In May, Parliament approved a bill that would alter some government structures in line with the recommendations of the Building Bridges Initiative (BBI), which was formed by Kenyatta and opposition leader Raila Odinga. Later that month, the High Court ruled against the bill, saying the selected process of introducing constitutional amendments was irregular. In August, the Court of Appeal upheld the ruling.
- In October 2021, the Pandora Papers, a cache of documents revealing the offshore activities of political leaders and other prominent individuals worldwide, implicated Kenyatta and several relatives in the utilization of offshore entities to shield over \$30 million in assets.

Political Rights

A Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through 1 / free and fair elections? 4

The president and deputy president, who can serve up to two five-year terms, are directly elected by majority vote, and are required to win 25 percent of the votes in at least half of Kenya's 47 counties.

President Uhuru Kenyatta was reelected in 2017 in a disputed election, the rerun of which was boycotted by opposition candidate Raila Odinga. Kenyatta won a solid victory in the first election that August, which analysts largely predicted. It was annulled that September by the Supreme Court, which ruled that Independent Electoral and Boundaries Commission's (IEBC) vote-counting procedures had been severely flawed, and that a rerun should be held. The main opposition coalition, the National Super Alliance (NASA), threatened to boycott the rerun unless a number of reforms were implemented at the IEBC. When some of these reforms were not enacted, Odinga boycotted the rerun.

Kenyatta won the rerun with 98.3 percent of the vote. Turnout for the rerun was only 38.8 percent—much lower than the nearly 80 percent turnout that August. Odinga continued to harshly criticize the election process after the second vote, and Kenyatta began his final term facing a legitimacy crisis.

Violence and intimidation marred the elections. IEBC member Chris Msando was murdered days ahead of the August vote, with his body showing signs of torture. In the weeks between the annulled election and the rerun, one IEBC commissioner fled for the United States, prompting the IEBC chairman to assert that the body could not guarantee a free election given the atmosphere of intimidation. Police in Nairobi and Kisumu used excessive force in an attempt to quell sometimes-violent opposition protests. Several dozen people were reportedly killed by police in the capital alone, according to Human Rights Watch (HRW).

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections? 3 / 4

The bicameral Parliament consists of the 349-seat National Assembly and the 67-seat Senate. In the National Assembly, 290 members are directly elected from single-member constituencies. A further 47 special women representatives are elected from the counties, and political parties nominate 12 additional members according to their share of seats won. The Senate has 47 elected members representing the counties, 16 special women representatives nominated by political parties based on the share of seats won, and four nominated members representing youth and people with disabilities. Both houses have speakers who are ex-officio members.

In 2017, Kenyatta's Jubilee Coalition secured majorities in both houses, and stakeholders broadly accepted the results. Irregularities and violations were reported, but they were not systematic and did not harm or benefit any specific party.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 2 / 4

The IEBC is mandated with conducting free and fair elections and operates under a robust electoral framework. However, the IEBC faces frequent allegations of favoritism toward the incumbent Jubilee Coalition, and in 2017 its members experienced violence and intimidation severe enough to prompt its chairman to declare that he could not guarantee the integrity of the presidential rerun. After the annulment of the first presidential election in 2017, the National Assembly approved controversial measures mandating that if a candidate withdraws from a rerun election, then the other candidate automatically wins the poll. The amendments additionally limited the Supreme Court's power to annul election results. The measures took effect a few days after the rerun was held.

In 2018, after a public reconciliation, Kenyatta and Odinga formed the Building Bridges Initiative (BBI), which convened a task force that developed recommendations geared toward altering government structures ahead of the 2022 elections, including introducing a prime minister and reducing the size of the cabinet. Some criticized the proposal as a way to allow Kenyatta, who is barred from seeking a third presidential term, to remain in power as prime minister. Parliament approved the BBI bill in May 2021, but the High Court ruled against it later that month, saying the government's method of introducing the constitutional-amendment bill was irregular. In August, the Court of Appeal upheld the ruling, saying that only Parliament or a popular initiative could initiate such changes.

B Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 2 / 4

Citizens are free to organize into political parties. Kenyan parties represent a range of ideological, regional, and ethnic interests, but are notoriously weak, and are often amalgamated into coalitions designed only to contest elections. Under the Political Parties Act (PPA), parties that receive at least 5 percent of the votes cast in a national election are eligible for public funds. As of June 2021, there were 73 fully registered parties. The number of registered party members increased from 7.6 million in 2013 to 16.3 million as of June 2021.

Parliament considered amendments to the PPA that would allow political coalitions to register candidates during 2021. Supporters of Deputy President William Ruto criticized the proposal, warning that the amended legislation would effectively force smaller parties to merge with larger ones. The amendments remained under consideration at year's end.

A 2018 rapprochement between Kenyatta and Odinga helped deescalate political tensions somewhat, though little has been done to bring to justice the perpetrators of political violence that took place in the previous years.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 2 / 4

Opposition parties and candidates are competitive in Kenyan elections, and the 2017 polls saw a high number of incumbents voted out of office. However, Odinga’s decision to boycott the rerun election in protest of a lack of IEBC reforms left Kenyatta opponents without a viable candidate to support, effectively guaranteeing Kenyatta’s reelection.

Politics have been unstable since 2018, when Kenyatta and Odinga publicly reached a truce in an event popularly known as “the handshake,” which some analysts said weakened the foundations of the Jubilee Coalition and the NASA. The Jubilee Coalition has also faced internal rifts in recent years. In March 2021, Deputy President Ruto was dismissed as the Jubilee Coalition’s deputy leader by its national management committee, though Kenyatta reportedly intervened to reverse the move. Ruto has been closely affiliated with a new party, the United Democratic Alliance, after it registered in January, though he reportedly remained a Jubilee Coalition member as of year’s end. In December, Odinga formally announced his run for president at an event attended by senior Jubilee Coalition members, indicating Kenyatta’s support of his candidacy.

B3 0-4 pts

Are the people’s political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means? 2 / 4

While people’s political choices are somewhat free from undue influence by powerful, democratically unaccountable actors, groups such as Mungiki, a Kikuyu-affiliated gang, exert control over daily services such as matatu (minibus) routes in some regions, and may use violence, intimidation, and other extrapolitical means to influence local and national electoral outcomes.

B4 0-4 pts

Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities? 2 / 4

Ethnicity remains the most salient organizing principle in Kenyan politics, and two ethnic groups—the Kikuyu and Kalenjin—have dominated the presidency since independence. The 2010 constitution intended to reduce the role of ethnicity in elections, and fiscal and political devolution, implemented in 2013, has served to generate more intraethnic competition at the county level. Nevertheless, the politicization of ethnicity at the national level still hinders effective representation of different segments of Kenya’s diverse population, limits voter choice, and impedes meaningful policy debates.

The stipulation that all voters possess a National Identity Card hinders historically marginalized groups from obtaining greater access to the political process, particularly the nearly seven million pastoralists from the upper Rift Valley and North Eastern Province. There are significant implicit barriers to the participation of non-Christian and LGBT+ people in national politics. Somali Kenyans, especially in Nairobi’s Eastleigh community and in the coastal and northeastern parts of the country, have been the target of government crackdowns ostensibly combating the Shabaab militant group, and are underrepresented politically.

C Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government? 2 / 4

The ability of elected officials to set and implement policy is undermined by corruption and dysfunction. Although the 2010 constitution reduced the powers of the executive branch and improved the oversight role of Parliament, corruption limits the independence of the legislative branch, and in practice, Parliament is generally subordinate to the president. Prior to its defeat in the courts, Kenyatta, Odinga, and Jubilee Coalition leaders used threats and intimidation to secure support for the BBI among party members, local officials, and judges.

C2 0-4 pts

Are safeguards against official corruption strong and effective? 1 / 4

Corruption continues to plague national and county governments in Kenya, and state institutions tasked with combating corruption have been ineffective. The Ethics and Anti-Corruption Commission (EACC) lacks prosecutorial power and has been largely unsuccessful in pursuing corruption cases. The EACC’s weakness is compounded by shortcomings at the Office of the Director of Public Prosecutions (ODPP) and within the judiciary.

However, following the 2018 appointment of Noordin Haji as Director of Public Prosecutions, the ODPP stepped up anticorruption investigations, arresting and charging a number of high-profile officials. In September 2021, a judge found former sports minister Hassan Wario guilty of corruption

over his conduct surrounding the 2016 Olympics, issuing a \$33,000 fine as an alternative to a six-year prison sentence.

In October 2021, the Pandora Papers implicated Kenyatta and several relatives in the utilization of offshore entities to shield over \$30 million in assets.

C3 0-4 pts

Does the government operate with openness and transparency? 2 / 4

Elaborate rules govern public finance in Kenya, but enforcement is often lacking. Parliament's Budget and Appropriations Committee effectively delegates the budget process to the Treasury, and the legislature has demonstrated limited willingness to ensure that the Treasury respects budget-making procedures. When budget information is made available, it is generally released long after the planning stages during which stakeholders could offer input.

Many of the central government's expenditures are not disclosed. At the county level, the availability of financial information generally is insufficient to ensure adequate public participation in local-government budgetary processes.

Civil Liberties

D Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media? 2 / 4

Kenya has one of the more vibrant media landscapes on the African continent, with journalists actively working to expose government corruption and other wrongdoing. However, several laws restrict press freedom, the government and security forces harass journalists, and incidents are rarely investigated by police. The combination of restrictive laws on press freedom and the potential for harassment and violence leads to self-censorship in some cases.

In 2020, officials threatened those who publish COVID-19-related misinformation with two years' imprisonment and a \$50,000 fine. That September, nongovernmental organization (NGO) Article 19 reported that journalists and bloggers faced arbitrary arrest, harassment, and assault after the pandemic began. In May 2021, police injured a Deutsche Welle journalist while she covered a Nairobi protest against police brutality and COVID-19 measures.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private? 2 / 4

The government generally respects the constitutional guarantee of freedom of religion. However, counterterrorism operations against the Somalia-based Shabaab militant group have left Muslims exposed to state violence and intimidation. Shabaab militants have at times specifically targeted Christians in Kenya.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4

Academic freedom in Kenya is traditionally robust. However, student union elections have led to allegations of fraud and violent protests. Police have also used tear-gas on protesting students, including at Maasai Mara University in May 2021 and at the University of Nairobi in July. In addition, there is evidence that ethnic considerations have influenced university hiring, leaving the staff of some institutions with significant ethnic imbalances.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

The relatively unfettered freedom of private discussion in Kenya has suffered somewhat from state counterterrorism operations, intimidation by security forces, and ethnically affiliated gangs. The government has used its broadly defined surveillance powers to monitor mobile phone and internet communications, including by deploying new digital surveillance tools during the pandemic. Still, over 80 percent of Kenyans access social media, and "Kenyans on Twitter" have their own hashtag, #KOT, demonstrating their influence. Political candidates have increased their use of social media to reach younger voters.

Kenyan internet users are sometimes exposed to disinformation. In September 2021, the Mozilla Foundation reported that an unidentified agency had hired high-profile Twitter users to target activists, journalists, and judges and to promote the BBI.

E Associational and Organizational Rights

E1 0-4 pts**Is there freedom of assembly? 2 / 4**

The constitution guarantees the freedom of assembly. However, the law requires organizers of public meetings to notify local police in advance. In practice, police have regularly prohibited gatherings on security or other grounds, and violently dispersed assemblies that they had not explicitly banned.

Public assemblies were also affected by COVID-19 measures. A pandemic-related curfew introduced in March 2020 was in effect for much of 2021, while a ban on public assemblies was introduced in late July due to a rise in cases. President Kenyatta lifted the nationwide curfew in October, but not the ban on assemblies.

In May 2021, police deployed tear-gas against Nairobi protesters opposing Israeli military activity in Gaza. In July, police in Nairobi used tear-gas and fired live ammunition into the air while trying to disperse protesters rallying against police brutality and pandemic-related restrictions. Several protesters were arrested.

E2 0-4 pts
Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work?
2 / 4

Kenya has an active NGO sector, but civil society groups have faced growing obstacles in recent years, including repeated government attempts to deregister hundreds of NGOs for alleged financial violations. The government has still not implemented the Public Benefits Organizations Act, which was passed in 2013 to improve the regulatory framework for NGOs and offer greater freedom for them to operate.

Several environmental activists have been killed in Kenya in recent years. In July 2021, environmental activist Joannah Stutchbury was killed by armed assailants at her home in the outskirts of Nairobi.

E3 0-4 pts**Is there freedom for trade unions and similar professional or labor organizations? 3 / 4**

The 2010 constitution affirmed the rights of trade unions to establish their own agendas, bargain collectively, and strike. Unions are active in Kenya, with approximately 57 unions representing 2.6 million workers as of 2018. However, labor leaders sometimes experience intimidation, notably in the wake of strike actions.

A number of strikes have taken place in the past several years, including those organized by medical workers and university staff, who faced additional pressures and resource constraints as they dealt with the coronavirus pandemic. Doctors held a strike over pay concerns and a lack of personal protective equipment in December 2020, though most doctors returned to work after several days. In January 2021, 86 doctors who continued to strike were dismissed.

F Rule of Law**F1 0-4 pts****Is there an independent judiciary? 2 / 4**

While judicial procedures are inefficient, the Kenyan judiciary is generally considered to be independent. The August 2021 Court of Appeal ruling on the BBI bill's constitutionality was widely considered a victory for judicial independence. In December, the High Court suspended a government directive that would have limited access to public services for individuals unvaccinated against COVID-19.

The government has occasionally refused to comply with court orders and has ignored the recommendations of the Judicial Service Commission (JSC). President Kenyatta refused to appoint 41 judges recommended by the JSC in 2019, citing integrity concerns for some of them. While Kenyatta appointed 34 of them in June 2021, he maintained his opposition against another 6 (1 died after being recommended). While Supreme Court chief justice Martha Koome initially criticized Kenyatta's continued opposition, Koome and the JSC accepted the president's stance in July.

Chief Justice Koome has openly criticized the state of the judiciary during 2021. In June, Koome criticized funding for the judiciary. In September, Koome commented on the effects of judicial corruption, warning that trust in the judicial branch was waning.

F2 0-4 pts**Does due process prevail in civil and criminal matters? 1 / 4**

Constitutional guarantees of due process are poorly upheld. There remains a significant backlog of court cases. Over 365,000 cases pending for at least five years remained unresolved as of 2017, with few of them being adjudicated in subsequent years.

The police service is thoroughly undermined by corruption, misconduct, and reports of extrajudicial killings. Although Parliament established the Independent Policing Oversight Authority in 2011, the agency's work has secured the conviction of only eight officers through mid-2020. Another six convictions were recorded in 2021, however.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4

Following their 2019 terrorist attack on the DusitD2 complex in Nairobi, which killed over 20 people, the Shabaab continued to pose a security threat in 2021, with militants threatening to continue their attacks until Kenyan troops withdraw from Somalia. In December 2021, two people in a western Kenyan village were killed by an assailant using an explosive device; authorities suspected the assailant was a Shabaab member.

Severe drought has exacerbated violent conflict in the north and east, with local NGOs calling for a stronger government response to alleviate hunger and reduce the pressures that drive conflict. In September 2021, President Kenyatta deployed security forces to Laikipia County after violent incidents were reported there over a period of several weeks. Some seven people were killed in clashes between armed herders in the weeks before the deployment.

Violence against suspects and detainees by security forces remains a serious concern, and abuses are rarely punished. Extrajudicial killings are more prevalent in low-income areas in Nairobi.

These trends accelerated during the coronavirus pandemic as Kenyan police utilized excessive and sometimes lethal force to impose curfew measures. According to the *Nation Newsplex's* Deadly Force database, police killed 97 people in 2021, a fall from the 2020 figure of 137 deaths. In August 2021, two brothers in Embu County who were detained for violating curfew died in police custody, sparking protests in which police killed another person and renewing calls for police accountability.

On Christmas Day, soldiers attempting to resolve a land dispute in Uasin Gishu County killed at least two civilians after local residents clashed with them.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4

Consensual same-sex sexual activity is criminalized, with a maximum penalty of 14 years in prison. LGBT+ people face discrimination, abuse, and violent attacks. In September 2021, the Kenya Film Classification Board banned a documentary for allegedly encouraging same-sex marriage.

Reports of police abuses against refugees and asylum seekers continue. Somali Kenyans are often stereotyped as refugees and terrorists—a misconception exacerbated by Shabaab attacks in Kenya since the 2010s—and have been targeted by government crackdowns as a result. Coastal communities have long experienced government underinvestment and political marginalization, resulting in worse educational, health, and economic outcomes in the region.

G Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4

While the constitution provides protections for freedom of movement and related rights, they are impeded in practice by security concerns and ethnic tensions that lead many residents to avoid certain parts of the country. The enforcement of COVID-19 lockdown measures was disproportionate and often excessively implemented. In 2021, police erected roadblocks on major roadways to enforce curfews, resulting in traffic delays that impacted essential workers and medical patients. In May 2021, a baby died in route to a Keroka hospital after police refused to let her and her grandfather through a roadblock.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1 / 4

Organized crime continues to threaten legitimate business activity in Kenya. Political corruption and ethnic favoritism also affect the business sector and exacerbate existing imbalances in wealth and access to economic opportunities, including public sector jobs.

Forced evictions without compensation are prevalent in low-income areas, particularly in Nairobi. In October 2021, Nairobi authorities evicted over 40,000 people living in an informal settlement to make way for a highway.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

The constitution recognizes marriage as a union between two people of the opposite sex, but otherwise does not place explicit restrictions on social freedoms. Polygamy is legal, and approximately 10 percent of the married population are in polygamous marriages. Rape and domestic violence remain common and are rarely prosecuted. Cases of domestic violence increased during the COVID-19 pandemic; in April 2020, the Public Service Ministry reported that cases of violence against women and girls rose by 36 percent over the previous year. In a September 2021 report, HRW warned that survivors of gender-based violence received insufficient government support.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

Kenya remains an unequal society, with wealth generally concentrated in towns and cities. The arid and semiarid north and northeastern parts of the country have particularly high poverty rates.

Refugees and asylum seekers from neighboring countries, particularly children, have been vulnerable to sex trafficking and forced labor in Kenya, though Kenyan children are also subject to such abuses. Kenyan workers are recruited for employment abroad in sometimes exploitative conditions, particularly in the Middle East

ecoi.net summary: 
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