

Kenya

PARTLY FREE

52
/100

<u>Political Rights</u>	22 /40
<u>Civil Liberties</u>	30 /60

LAST YEAR'S SCORE & STATUS**52 /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 2023

- In March, the opposition Azimio la Umoja coalition launched a series of disruptive protests, which the government attempted unsuccessfully to ban. Authorities arrested over 300 people, including an opposition lawmaker, during July protests that was marred by clashes between security forces and protesters in several cities. At least 30 people were killed by police as of July 20, according to Amnesty International's Kenya chapter.
- In July, Azimio la Umoja and the ruling coalition, Kenya Kwanza, agreed to the creation of the National Dialogue Committee (NADCO) to address constitutional issues, cost-of-living concerns, and female representation in politics, among other matters. In November, NADCO presented its recommendations, including a review of the 2022 presidential election and the reconstitution of the Independent Electoral and Boundaries Commission (IEBC) selection panel.
- In February, the Supreme Court upheld a lower court's ruling that allowed an LGBT+ group to register as a nongovernmental organization (NGO). The National Gay and Lesbian Human Rights Commission (NGLHRC) originally sought judicial review in 2013 after the government denied its registration. The Supreme Court rejected a challenge to its ruling in September.

Political Rights

A. Electoral Process

A1 0-4 pts

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

3/4

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.

Despite polls predicting a win for longtime opposition leader Raila Odinga, who had been endorsed by incumbent president Uhuru Kenyatta, then deputy president William Ruto was elected president in 2022 with 50.49 percent of the vote, narrowly avoiding a runoff. Though the results were supported by parallel vote tabulation, Odinga and his supporters filed a petition with the Supreme Court shortly after the election seeking to nullify the results, alleging that foreigners had obtained unauthorized access to the IEBC's digital system, and results forms had been altered. Ultimately, the Supreme Court rejected the petitioners' claims and unanimously upheld the election results.

The election was widely seen as Kenya's most transparent and technologically advanced to date. The IEBC employed biometric voter identification kits, and uploaded results forms to a public online portal, with more than 90 percent uploaded within a day of the election. Both candidates urged their supporters to remain peaceful and committed to respecting the outcome of the court challenge.

Nevertheless, there were reports of irregularities and instances of intimidation and violence, including the abduction and murder of an election official. Youth in some areas reported being hired to disrupt rival campaigns. Youth voter registration lagged behind previous years, and some polling stations reported problems with biometric voter identification kits and incorrect usage of the backup manual register. In October 2023, Azimio la Umoja called for an audit of the election, which several NGOs supported but Kenya Kwanza opposed. In its November report, NADCO said that a panel of experts should review the election.

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 4 nominated members representing youth and people with disabilities. Both houses have speakers who are ex-officio members.

In the August 2022 elections, the Ruto-led Kenya Kwanza coalition secured a one-seat advantage in the Senate, while the Odinga-led Azimio la Umoja won a one-seat lead in the National Assembly. Voters elected a historic 29 women to Parliament; however, this still fell short of constitutionally mandated gender balance, which requires that no more than two-thirds of an elected body be of the same gender. Some irregularities were reported, including printing mistakes that rendered a number of ballots invalid, resulting in the IEBC having to delay voting for eight positions.

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 2022 election exposed continued rifts and politicization within the IEBC. As the IEBC chairperson prepared to announce the election results, fighting briefly erupted at the announcement location, and four of the seven commissioners—who were appointed by then president Uhuru Kenyatta in 2021—held a separate press conference stating they could not uphold the forthcoming results, claiming opacity in the tabulation process. After calm was restored, the chairperson declared Ruto the winner, raising questions about whether the chairperson can act independently of the majority of the commission.

In September 2022, the Supreme Court affirmed that the power to verify and tally presidential election results is vested in the IEBC itself and not the chairperson. Nevertheless, the court found that the IEBC had carried out its constitutional responsibilities to verify, tally, and announce the results of the election, and

upheld Ruto’s victory. President Ruto suspended the four commissioners who did not uphold the results after taking office; three of them later resigned.

In February 2023, President Ruto announced a selection panel to nominate replacements for six IEBC commissioners. Following the opposition protests that began in March, Kenya Kwanza and Azimio la Umoja formed NADCO, which in November recommended an evaluation of the 2022 election and the reconstitution of the IEBC selection panel. President Ruto has indicated support for implementing NADCO’s recommendations.

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.

In January 2022, over Ruto’s strong objections, then president Kenyatta signed into law amendments to the PPA that, among other things, allow for coalition parties. However, significant disadvantages to youth and women aspirants—including indirect candidate nomination processes—remain.

B2 0-4 pts

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

3/4

Opposition parties and candidates are competitive in Kenyan elections. In the August 2022 elections, then deputy president Ruto, who portrayed himself as standing outside Kenya's long-standing political dynasties, defeated five-time presidential candidate Odinga, who had been endorsed by Kenyatta. The 2022 polls were highly competitive, and unlike the previous election, were not boycotted by opposition groups.

Beginning in March 2023, Azimio la Umoja launched protests over the 2022 election results, the high cost of living, and tax increases, and authorities responded forcefully. Some 30 people were killed by police as of July 20 according to Amnesty International's Kenya chapter.

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

People's political choices are somewhat free from undue influence by powerful, democratically unaccountable actors. However, groups such as Mungiki, a gang affiliated with the Kikuyu ethnic group, 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. Little has been done to bring to justice the perpetrators of political violence that took place in previous years.

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. While ethnicity played a less prominent role in the 2022 presidential election—with Ruto's campaign focused on economic issues, and voters in Kikuyu strongholds voting for the Kalenjin Ruto over the Kikuyu Kenyatta's endorsed candidate, Odinga—long-standing political mistrust between the Kikuyu and the Luo ethnic group, to which Odinga belongs, may have contributed to his loss.

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 coastal and northeastern areas, have been the target of government crackdowns ostensibly combating the Shabaab militant group, and are underrepresented politically. People with disabilities are also underrepresented in elected positions, despite quotas intended to guarantee their inclusion.

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. In 2021, Kenyatta, Odinga, and leaders of the Kenyatta-led Jubilee Coalition used threats and intimidation to secure support among party members, local officials, and judges for the Building Bridges Initiative (BBI), a bill to alter government structures ahead of the 2022 election, prior to the bill's defeat in the courts.

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.

The 2022 election of Rigathi Gachagua as Ruto's deputy president was criticized as emblematic of continued impunity for those accused of corruption. In 2021, Gachagua was charged with six counts relating to corruption; he was ordered to repay \$1.7 million in July 2022, less than two weeks before the election. After the election, the ODPP withdrew charges against Deputy President Gachagua and a number of Ruto's allies, purportedly due to insufficient evidence, resulting in swift criticism by advocates and opposition leaders.

In September 2023, the Communications Authority suspended its director general over an alleged effort to defraud the agency of 25 million Kenyan shillings (\$176,800). In December, the EACC arrested a former tourism secretary on corruption-related charges.

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, while budget transparency is gradually improving, the availability of financial information in many counties is insufficient to ensure adequate public participation in local governments’ budgetary processes.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?	2 / 4
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Kenya has one of Africa’s more vibrant media landscapes, with journalists actively working to expose government corruption and wrongdoing. However, several laws restrict press freedom. The government and security forces regularly harass journalists, and such 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. Women journalists generally face greater harassment and risk of attack.

In 2022, Pakistani journalist Arshad Sharif was shot and killed by police in Nairobi at a roadblock; Pakistani authorities later claimed that Sharif’s death had been a targeted killing. In October 2023, Sharif’s widow filed a lawsuit against the General Service Unit, the police unit responsible for his killing.

Over 20 media workers were injured or arrested while covering opposition protests in March 2023. In a statement issued that month, the Media Council of Kenya condemned what it characterized as deliberate police repression;it also reported infractions to the inspector general of police. Following a June Nation Media Group (NMG) report on corruption in the Ministry of Investments, Trade, and Industry, ministry secretary Moses Kuria wrote a series of inflammatory social media posts about NMG journalists and threatened to remove any government officials who advertised in NMG outlets.

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.

In May 2023, following the discovery that hundreds of followers of a religious cult had died of starvation, President Ruto established a task force to review the regulation of religious organizations to address cults and extremism. In August, the government banned five churches including Good News International Ministries, whose followers had died of starvation in May.

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 arrested and have used tear gas on protesting students, including at Multimedia University in October 2023. 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 COVID-19 pandemic.

Kenyan internet users are sometimes exposed to disinformation. Online disinformation campaigns increased during the 2022 presidential election. Anti-LGBT+ disinformation accelerated in 2023, placing LGBT+ communities at heightened risk.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	2/4
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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, though security forces displayed some restraint during the 2022 electoral period.

Police responded to sustained opposition protests that began in March 2023 with tear gas and live ammunition. Officers were reportedly instructed not to report protest-related deaths. Police arrested over 300 people during July protests that were marred by clashes with protesters in several cities; an opposition lawmaker was among those arrested. Some 50 schoolchildren in one of Nairobi's informal settlements were hospitalized in mid-July after tear gas was thrown into their classroom during a protest, resulting in strong condemnation. Some 30 people were killed by police as of July 20 according to Amnesty International's Kenya chapter, which accused police of beating protesters and using tear gas indiscriminately.

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 civil society, but NGOs have faced growing obstacles in recent years, including repeated government attempts to deregister hundreds of NGOs for alleged financial violations. Several environmental activists have been killed in Kenya in recent years.

In February 2023, the Supreme Court affirmed the right of LGBT+ groups to register as NGOs when it directed the government to register the NGLHRC. The court rejected a challenge to that ruling in September.

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. 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.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?

3/4

While judicial procedures are inefficient, the Kenyan judiciary is generally considered to be independent, and the courts have demonstrated this through a series of high-profile rulings in recent years. In 2022, the Supreme Court ruled against the incumbent government to unanimously uphold the results of the presidential election, bolstering its role as the independent final arbiter of electoral disputes. Likewise, the Court of Appeals and Supreme Court rulings that

the BBI bill was unconstitutional—in 2021 and 2022, respectively—were widely considered victories for judicial independence.

Nevertheless, the government has occasionally refused to comply with court orders and has ignored the recommendations of the Judicial Service Commission (JSC). In 2018, then president Kenyatta submitted the appointment of a member of the JSC for parliamentary approval, breaking with previous practice. In an April 2023 ruling stemming from this case, the Supreme Court held that the president has no role in appointing JSC members.

In April 2023, President Ruto increased the judiciary’s budget by more than four billion shillings (\$28 million) following several years of funding disputes between the judiciary and the Kenyatta administration.

F2 0-4 pts

Does due process prevail in civil and criminal matters?	1/4
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Constitutional guarantees of due process are poorly upheld. There remains a significant backlog of court cases.

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 secured the conviction of only 17 officers through 2021, out of more than 20,000 complaints and nearly 3,500 investigations.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?	1/4
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Following their 2019 terrorist attack on the DusitD2 complex in Nairobi, which killed over 20 people, Shabaab has continued to pose a security threat, with militants threatening to continue attacks until Kenyan troops withdraw from Somalia. Kenya experienced a string of attacks by Shabaab in mid-2023, including the killing of eight police officers in Garissa County in mid-June and five civilians in

Lamu County in late June. Officers who were ambushed in Mandera in July reportedly killed 20 militants in a firefight.

Severe drought and food shortages—worsened by the 2022 Russian military’s invasion of Ukraine—have 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 February 2023, Kenyan security forces began an operation in the Rift Valley Region to combat livestock theft and curb violence.

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. In 2022, President Ruto disbanded the Special Service Unit, an “elite” police unit implicated in numerous forced disappearances and extrajudicial killings.

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, though the law is rarely enforced. LGBT+ people face discrimination, abuse, and violent attacks. In January 2023, a prominent LGBT+ activist, Edwin Chiloba, was found dead in the western town of Eldoret; authorities said they did not believe the killing was a hate crime and charged a long-time friend of Chiloba’s with his murder. The February Supreme Court ruling affirming the right of LGBT+ groups to register with the government’s NGO office was met with protests and increased threats against LGBT+ people.

The 2022 Children Act provides intersex children with legal recognition and equal access to services.

Reports of police abuses against refugees and asylum seekers continue. Somali Kenyans are often stereotyped as refugees and terrorists 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.

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

Kenya has established property rights and a robust private sector; however, 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 November 2023, the government resumed evictions of the Indigenous Ogiek community from the Mau Forest, despite multiple rulings by the African Court on Human and Peoples' Rights that affirmed the Ogiek's rights to their ancestral land and ordered the Kenyan government to pay reparations for past evictions.

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. In mid-2023, the Kenyan judiciary announced the creation of special courts throughout the country to deal with sexual and gender-based violence. In December, after police rescued several girls who had been subjected to female genital mutilation in Elgeyo-Marakwet County, a group of young men attacked and killed one of the officers.

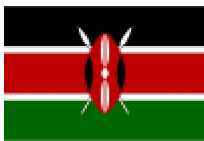
G4 0-4 pts

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 and Southeast Asia.



On Kenya

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Country Facts

Population

54,030,000

Global Freedom Score

52/100 **Partly Free**

Internet Freedom Score

66/100 **Partly Free**

Other Years

2023

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