

Kenya - Human Rights Scorecard¹

Kenya is an Eastern African country, bordering the Indian Ocean, between Somalia, Tanzania and Ethiopia. It is one of the most populous countries in Africa.²

Official language: English, Kiswahili

Ethnic groups : Kikuyu 22%; Luhya 14%; Luo 13%; Kalenjin 12%; Kamba 11%; Kisii 6%; Meru 6%; other African 15%; non-African 1%.

Government: Republic

- President and head of government: Uhuru Kenyatta

- Deputy President: William Ruto

Death penalty: Abolitionist in practice

Population: 45.9 million

Life expectancy: 63.8 years

Under-5 mortality: 39.4 per 1000

Adult literacy: 78 percent



Section 1: Respect for the Integrity of the Person

Respect for the integrity of the individual is the most fundamental of human rights groupings. It guarantees protection of the person to ensure the right to life, and freedom from torture. It also prevents arbitrary detention, and disappearances, and ensures the right to a free and fair trial when accused.

Freedom from arbitrary or unlawful deprivation of life



Largely disrespected³

There were reports of security forces frequently involved in arbitrary or unlawful killings, including against individuals of Somali origin or Muslims, under cover of counterterrorism measures. Despite evidence of such practices, the authorities rarely investigate or prosecute these abuses.

Freedom from disappearance



Largely disrespected⁴

There have been reports of abductions by security forces for several years, with little accountability by security forces. Several individuals disappeared after being arrested or were held incommunicado, most of them were facing terrorism-related charges.

Freedom from torture and other cruel, inhuman or degrading treatment or punishment



Largely disrespected⁵

Although the use of torture is prohibited by the constitution, the legal code does not provide a definition of torture and does not set sentencing guidelines, which makes prosecution impossible in practice. Torture is practiced widely by the police.

Freedom from arbitrary arrest or detention



Largely disrespected⁶

Although the law prohibits arrest or detention without a court order, the security forces frequently arrest or detain citizens arbitrarily. Corruption among security forces and impunity remain significant problems.

Freedom from denial of fair public trial



Partially respected⁷

The new constitution adopted in 2010 provides for an independent judiciary. The defendants' rights are generally respected, although the lack of a formal legal aid system prevents poor defendants from getting legal counsel. The judicial system also suffers of severe trial delays.

Freedom from arbitrary interference with privacy, family, home or correspondence



Partially respected⁸

The government generally upholds privacy rights; however during the Usalama watch operation, following attacks in Nairobi and Mombasa by the Somali-based armed group, Al-Shabaab, security forces undertook large-scale raids without warrants in targeted neighbourhoods.⁹

Section 2: Respect for Civil Liberties

Civil liberties are a basic category of internationally recognized human rights. They include the freedoms of expression, assembly, association, education, and religion. These are inalienable rights which should not be breached by government, and should ensure the rights of all, including women and minority groups.

Freedom of speech and press (*Reporters Without Borders Press Freedom Index*)¹⁰



Score: 32.07% Rank: 100 / 180 – Partially controlled, limited or intimidated¹¹

NGOs supporting the ICC's prosecution of former leader Kenyatta, & groups advocating for the rights of the victims of the 2007-2008 post-election violence face intimidation and harassment from the authorities. The government often uses libel and defamation laws to silence criticism.¹²

Freedom from academic censorship



Respected¹³

The government generally respects academic freedom.

Freedom of peaceful assembly and association



Partially respected¹⁴

According to the law, public meetings can only be prohibited if there is a serious security threat. However, the security forces routinely deny legitimate requests filed by human rights groups or disperse legal gatherings using excessive force.

Freedom of religion



Largely disrespected¹⁵

Human rights organizations reported that Somali refugees, Kenyans of Somali heritage, and Muslims were the target of government-directed arbitrary arrests, detentions, extrajudicial killings and deportations. Several mosques have been closed for allegedly supporting terrorism activities.

Protection of refugees and stateless persons



Largely disrespected¹⁶

The law provides refugees with rights. However following terrorist attacks, the government deported hundreds of Somalis and other nationals without any monitoring from the UN. During the process, refugees were forced into overcrowded camps, living in inhumane conditions.¹⁷

Overall protection of civil liberties (*FreedomHouse Civil Liberties Index*)¹⁸



4 / 7 – Partly free¹⁹

The 2010 constitution protects freedom of speech and of the press, but several laws restrict these rights in practice. Counter-terrorism measures and regulations cause a restriction of citizens' and non-citizens' civil liberties.

Section 3: Respect for Political Rights

Political rights ensure all members of society are able to influence the political process. The assessment of political rights includes an examination of the electoral process and the selection of representatives, the political empowerment of the general public, the tolerance of dissent, the accountability of government, etc..

Overall protection of political rights (*FreedomHouse Political Rights Index*)²⁰



4 / 7 – Partly free²¹

Under the 2010 constitution, the president and deputy president are directly elected by majority vote. International observers said that the 2013 elections were generally peaceful and represented serious improvements, but with several shortcomings, especially in terms of campaign finance.

Section 4: Corruption and Lack of Transparency in Government

The civil, political, economic and social rights exercised within a country are often modulated by the degree of transparency and freedom from corruption. Various international metrics assess transparency and corruption, including the OECD anti-bribery convention, the Bribe Payers Index, and the Open Budget Index.

Transparency and freedom from corruption (*Transparency International Corruption Perceptions Index*)²²



Score: 25%, Rank: 145 / 175 – Highly corrupt²³

The law criminalizes official corruption, but the government does not implement these laws effectively. Despite public scandals, officials continue to engage in corrupt practices with impunity. The World Bank stated that corruption is a significant issue at all levels in Kenya.²⁴

Section 5: Governmental Response to Criticism

This section deals specifically with the response heads of state have to civil society or international human rights reports.

Governmental attitudes vis-à-vis independent investigations of alleged human rights violations



Partially respected²⁵

Human rights organizations generally operate without interference from the government. However, there have been reports of increasing harassment of human rights groups in rural areas. Officials tend to be cooperative only when the recommendations match their existing policies.

Section 6: Discrimination and Societal Abuses

Legal and social discriminatory practices related to sex, race, creed or sexual orientation, are violations of human rights. Countries with strong civil liberty traditions should have a fair legal system that ensures the rule of law, allows free economic activity, and ensures equality of opportunity for all.

Rights of women (World Economic Forum Gender Gap Index)²⁶



Score: 72.6%, Rank: 37 / 142 – Somewhat unequal rights²⁷

The law prohibits discrimination based on gender and criminalizes rape²⁸. However, violence against women and girls, including different kinds of sexual violence, remain a significant issue. There were also reports of public stripping and groping of women deemed to be indecently dressed²⁹.

Rights of Children (KidsRights Index Overall Score)³⁰



Score: 51.9%, Rank: 126 / 165 – Slightly vulnerable³¹

The law provides for free education until the age of 13; however many children, especially girls, drop out of school because of limited resources, child labour or forced marriage. Child abuse, including sexual violence, occurs frequently³².

Rights of persons with disabilities



Largely disrespected³³

Although the law prohibits discrimination against persons with disabilities, the government does not enforce these laws effectively. They had difficulties accessing employment, health care and state services. There were reports of killings, torture and abuse of persons with disabilities.

Rights of national/racial/ethnic minorities (e.g. discrimination, Islamophobia, anti-Semitism etc.)



Partially respected³⁴

More than 40 ethnic groups comprise Kenya's population, but no single group forms a majority. Interethnic conflicts are frequent due to economic inequalities, political rivalries, grievances over land, etc. The Al-Shabaab attacks aggravated the discrimination against Somalis and Muslims.

Freedom from abuse and discrimination based on sexual orientation or gender identity



Largely disrespected^{35 36}

Same-sex relations are criminalized by the law. Although the criminal sanctions are rarely enforced, LGBT individuals face severe discrimination, harassment and abuse, including from the police and other state agents³⁷. Their basic rights suffer serious infringements³⁸.

Section 7: Workers' Rights

Workers' rights are a group of legal rights relating to labour relations between workers and their employers. At their core are things like the ability to negotiate pay, benefits, terms of employment, and safe working conditions. These rights often devolve from the right to unionize and access to collective bargaining.

Rights to freedom of association and to collective bargaining



Partially respected³⁹

The law provides for the rights of workers to conduct legal strikes, join unions and bargain collectively, but the law allows the government to prohibit strikes under certain conditions. Furthermore, in order to strike, workers need to give a 7 day notice to the employer and the government.

Freedom from forced or compulsory labour



Partially respected⁴⁰

Although the law prohibits forced or compulsory labour, there are still reports of it as government inspections are insufficiently funded to stop the practice. The law allows compulsory labour in prison where prisoners can be forced to work up to 60 days per year.

Freedom from forced labour for children, and a minimum age of employment



Partially respected⁴¹

The law prohibits child labour and sets a minimum age of employment at 16. However, up to 3 million children are said to be working between the ages of 5 and 18, most of them engaged in the most destructive kinds of child labour, notably in the agricultural and mining sectors.

Right to acceptable conditions of work



Partially respected⁴²

Minimum wages and work time regulations are set by occupation and location, agricultural workers being underpaid and facing exploitative working conditions compared to other sectors. Health and safety standards are not generally respected due to a lack of controls and inspections.

Right to employment



9,2% - High unemployment⁴³

The unemployment rate in Kenya is high, and is expected to remain high for the coming years.

¹ A hybrid human rights and freedoms model, leveraging both legal principles and intuitive classifications, has been used for this human rights assessment. The CJPME Foundation has sought to integrate as many independent sources and metrics into its summary analysis as possible. In many cases, for qualitative material pertaining to the respect for a particular right in a country, the CJPME Foundation has drawn on material from Human Rights Watch and the US State Department country reports. Human Rights Watch (HRW) publishes a World Report which assesses the respect for human rights in each country. HRW uses a methodology of local reporting and interviewing, combined with research and analysis to assess the level of respect of human rights. The U.S State Department keeps an updated publication on the state of human rights internationally. Their system of research and accountability draws from the research of official US State Department officials, as well as local civil-society and international human rights organizations.

² Commonly-known information on the country is drawn from various Internet sources, including Google country pages, the CIA World Factbook and Amnesty International. For death penalty see: "Death sentences and executions in 2013." Amnesty International. March 24, 2014. Accessed November 9, 2015. <https://www.amnesty.org/en/documents/act50/001/2014/en/>.

³ "Human Rights Watch-World Report 2015-Kenya". January 1, 2015. Accessed November 9, 2015. <https://www.hrw.org/world-report/2015/country-chapters/kenya>

⁴ "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>. For purposes of the present analysis, a "disappearance" is different than simple arbitrary detention because a "disappearance" is considered permanent.

⁵ Ibid. U.S Department of State.

⁶ Ibid. U.S Department of State.

⁷ Ibid. U.S Department of State.

⁸ Ibid. U.S Department of State.

⁹ "Amnesty International report 2014/15 – Kenya", Amnesty International, January 1 2014. Accessed November 10, 2015.

<https://www.amnesty.org/en/countries/africa/kenya/report-kenya/>

¹⁰ The Press Freedom Index published by Reporters Without Borders ranks the level of freedom of information in 180 countries. This is determined through the polling of local NGOs and freedom of expression civil society organizations across the globe. This index is also determined by local correspondents and follow-up work done on reports of infringement to press freedom where ever it takes place. Their methodology looks at six different indicators: 1) Media pluralism, 2) Media independence, 3) Media atmosphere and self-censorship, 4) the Law around media, 5) Media transparency, and 6) Media infrastructure. The score from these six indicators is combined with a rating for the violence against journalists in the country to create an overall score. The CJPME Foundation classifies the Press Freedom Index as follows: 0 – 14.99 (25 countries), Largely free, diverse and independent; 15 – 24.99 (29 countries), Mostly free, diverse and independent; 25 – 29.99 (32 countries), Partially free, diverse and independent; 30 – 39.99 (49 countries), Partially controlled, limited or intimidated; 40 & higher (42 countries), Highly controlled, limited or intimidated.

¹¹ "World Press Freedom Index." Reporters Without Borders: For Freedom of Information. January 1, 2015. Accessed November 10, 2015. <http://index.rsf.org/#/>

¹² "Human Rights Watch-World Report 2015-Kenya". January 1, 2015. Accessed November 9, 2015. <https://www.hrw.org/world-report/2015/country-chapters/kenya>

¹³ "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

¹⁴ Ibid. U.S Department of State.

¹⁵ "Kenya 2014 International Religious Freedom Report". US Department of State. January 1,2015. Accessed November 10, 2015.

<http://www.state.gov/documents/organization/238438.pdf>

¹⁶ "Human Rights Watch-World Report 2015-Kenya". January 1, 2015. Accessed November 9, 2015. <https://www.hrw.org/world-report/2015/country-chapters/kenya>

¹⁷ "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

¹⁸ Freedom House is an internationally recognized NGO based in the U.S which documents and rates the quality of democratic practice in a given country. Freedom House splits its grading system between the two areas of civil and political rights in a country. On each scale, the Freedom House rating is 1-2.5 (free), 3-5.5 (partly free) and 6-7 (not free). Freedom House's Civil Liberties index measures things such as a) freedom of expression and belief, b) associational and organizational rights, c) the rule of law, and d) personal autonomy and individual rights. Freedom House rates countries as 1-2.5 (free), 3-5.5 (partly free) and 6-7 (not free). Accessed November 10, 2015 <https://freedomhouse.org/report/freedom-world-2015/methodology>.

¹⁹ "Freedom in the world-2015-Kenya". Freedom House. January 1, 2015. Accessed November 10, 2015. <https://www.freedomhouse.org/report/freedom-world/2015/kenya>

²⁰ See footnote about the Freedom House organization above. The Freedom House Political Rights assessment looks at a) the electoral process, b) political pluralism and participation, and c) the functioning of government. Accessed November 11, 2015 <https://freedomhouse.org/report/freedom-world-2015/methodology>.

²¹ "Freedom in the world-2015-Kenya". Freedom House. January 1, 2015. Accessed November 10, 2015. <https://www.freedomhouse.org/report/freedom-world/2015/kenya>

²² Transparency International (TI) publishes a "Corruption Perceptions Index" annually, which is based on independent research and polling. The main categories of corruption are broken down within the index to provide particulars on issues including things such as perceptions of corruption, control of corruption, and financial secrecy. A country receives a score on 100; the higher the score, the less corrupt the society. The CJPME foundation has classified them into categories as follows: 80-100 (11 countries): Very limited corruption; 60-79 (27 countries): Limited corruption; 40-59 (41 countries): Some corruption; 20-39 (80 countries): Highly corrupt; 0-19 (15 countries): Extremely corrupt.

²³ "Kenya" Corruption by Country. January 1, 2015. Accessed November 11, 2015. <http://www.transparency.org/country#KEN>

²⁴ "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

²⁵ Ibid. U.S Department of State.

²⁶ This metric is based on the World Economic Forum's Gender Gap Index. 0.00 denotes inequality between the sexes, and 1.00 denotes fully equality between the sexes. This index looks at four subdomains: economic participation and opportunity; educational attainment; health and survival; and political empowerment. Each country is given a percentage score; the higher the percentage, the better the protections. The CJPME Foundation classed the percentages as follows: 80-100% (5 countries): Almost equal rights; 70-79% (60 countries): Somewhat unequal rights; 0-69% (77 countries): Very unequal rights

²⁷ "Kenya" World Economic Forum. January 1, 2014. Accessed November 11, 2015. http://www3.weforum.org/docs/GGGR14/GGGR_CompleteReport_2014.pdf

²⁸ "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

²⁹ "Amnesty International report 2014/15 – Kenya", Amnesty International, January 1 2014. Accessed November 10, 2015.

<https://www.amnesty.org/en/countries/africa/kenya/report-kenya/>

³⁰ This metric is based on the KidsRights Index Overall Score. This index has five subdomains: life expectancy and maternal mortality; health; education; protection; and child rights environment. Each country is given a percentage score; the higher the percentage, the better the protections. KidsRights classes the countries according to these percentages, and the CJPME Foundation has given each class a term as follows: 70-100% (77 countries): Protected; 60-70% (29 countries): Somewhat protected; 45-60% (33 countries): Slightly vulnerable; 30-45% (12 countries): Highly vulnerable; Lower than 30% (11 countries): Extremely vulnerable.

³¹ "The KidsRights Index: Overall Score." The KidsRights Index. January 1, 2014. Accessed November 11, 2015.

<http://www.kidsrightsindex.org/Portals/5/Users/034/34/34/The%20KidsRights%20Index%20-%20Total%20view%20-%20may%202015.pdf>.

³² "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

³³ Ibid. U.S Department of State.

³⁴ Ibid. U.S Department of State.

³⁵ "State homophobia" International Lesbian Gay and Intersex Association. January 1, 2015. Accessed November 11, 2015.

http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2015.pdf. See also Ibid. U.S Department of State.

³⁶ ILGA, the International, Lesbian, Gay, Bisexual, Trans and Intersex Association, was founded in 1978 on the principle of highlighting state sponsored homophobia where it exists around the world. ILGA annually publishes a map with an accompanying report on sexual and gender based harassment, which focuses on both the legal and non-legal acts of state sponsored discrimination.

³⁷ "Human Rights Watch-World Report 2015-Kenya". January 1, 2015. Accessed November 9, 2015. <https://www.hrw.org/world-report/2015/country-chapters/kenya>

³⁸ "Kenya 2014 Human Rights Report." U.S Department of State. January 1, 2015. Accessed November 9, 2015.

<http://www.state.gov/documents/organization/236582.pdf>, or <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

³⁹ Ibid. U.S Department of State.

⁴⁰ Ibid. U.S Department of State.

⁴¹ Ibid. U.S Department of State.

⁴² Ibid. U.S Department of State. See also a well-done Wikipedia comparison of wage, income and work week metrics across countries at

http://en.wikipedia.org/wiki/List_of_minimum_wages_by_country

⁴³ "Global Employment Trends." International Labour Organization. January 1, 2013. Accessed November 11, 2015. http://www.ilo.org/global/research/global-reports/global-employment-trends/2014/WCMS_233936/lang--en/index.htm.