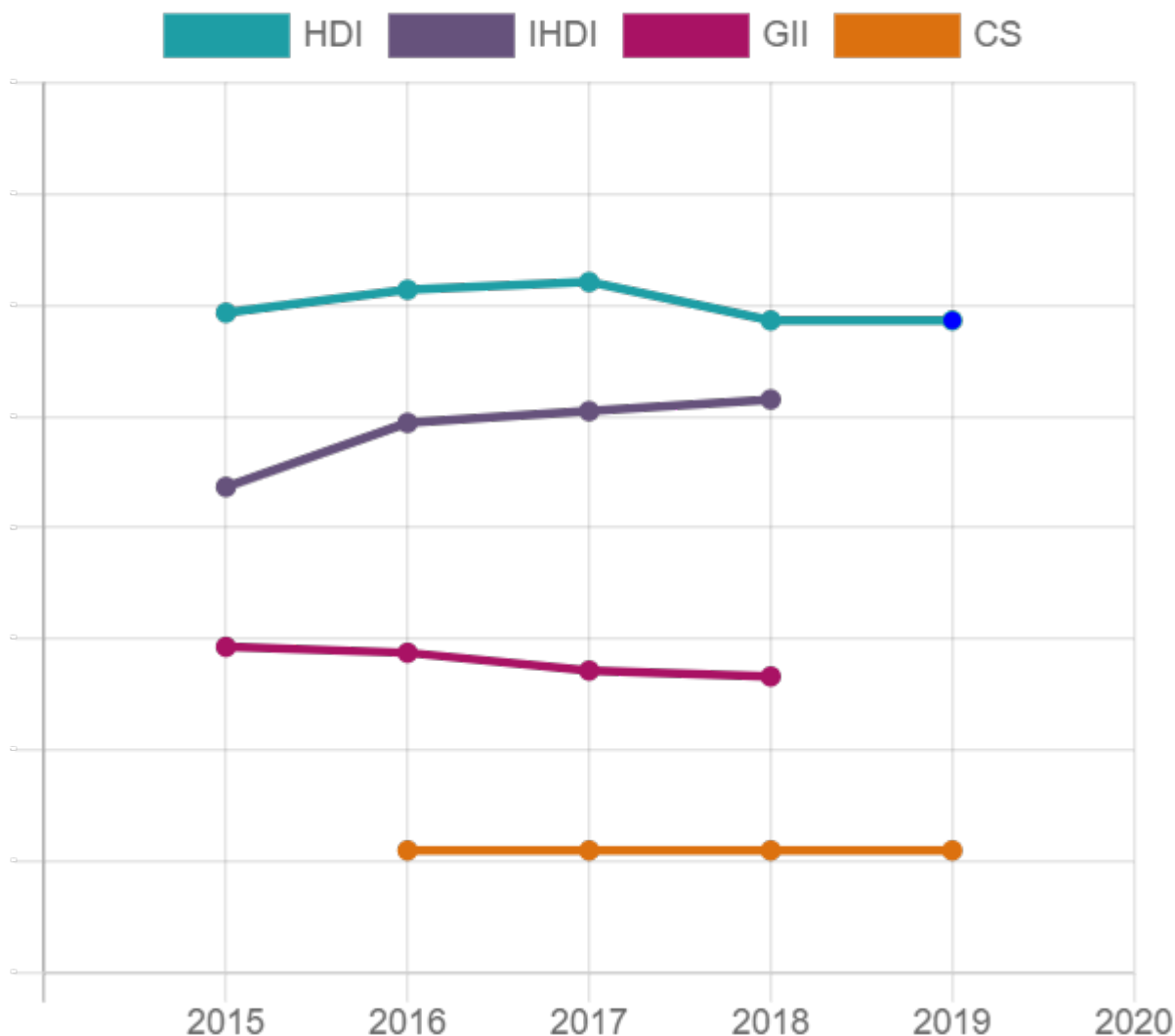


# KENYA

Kenya is a middle-income country with the largest and most diversified economy in East and Central Africa. The government has driven social, economic and political development with notable reforms in a number of areas. We live in a rapidly changing world – some changes may be for the better – others not so much. In order to continue to ground Voice in local lived realities, a country context analysis is organised every other year, engaging many stakeholders, grantees and rightsholders. The analysis is used to frame Calls for Proposals, to support the applications of grant-seekers and to advance the overall learnings. Below follows a summary of the exercise conducted in 2020, capturing the many views and perspectives of Kenyans. The summary is structured by presenting the big picture and slowly but surely to **zoom in** on the voices and aspirations of the rightsholders and to **zoom out** again by sharing the way forward for Voice. This page can also be downloaded at the bottom of the page. A detailed report is available upon request. Please contact [Kenya@voice.global](mailto:Kenya@voice.global)

## Zooming Out

### The big picture



### Human Development Index (HDI)

The Human Development Index is an index that combines data on life expectancy, education, and per capita

income to rank countries. In 2019, Kenya ranked number 147 globally in the HDI, which has worsened over the years. However, overall there has been an improvement in the HDI indicators since 2016 by 1.9%.

## Inequality-adjusted Human Development Index (IDHI)

The IHDI measures the human development cost of inequality, or the overall loss to human development due to inequality. The closer to 1 the more equal a society is. The IHDI can inform policies towards inequality reduction. Whereas HDI in Kenya has improved since 2016, the human development cost of inequality has increased from 0.153 in 2016 to 0.161 in 2020, which is an increase at a rate of 5.2%.

## Gender Inequality Index (GII)

The GII is an inequality index, measuring the human development costs of gender inequality economically, health- and education-wise. The closer to 0 the better. In Kenya gender inequality has marginally reduced since 2016 but is still on the lower end.

## Civic Space (CS)

According to the independent Civicus Monitor which started in 2016, civic space has been obstructed since 2016. It is often characterised by disruptions to peaceful assembly, police harassment and brutality e.g. during the enforcement of curfew due to Covid-19 regulations.

## Behind the numbers

Kenya is currently operating under an obstructed civic society environment that has been and continues to be plagued by increased police brutality, media censorship and silencing of dissent from citizens. The standard of living remains exclusive as a majority of the citizenry lives under \$1 a day, contributing towards increased inequality and further marginalisation. Albeit these conditions, Voice rightsholder groups continue to be resilient and actively lobby for inclusive policy change leveling the playing field for access to decent job opportunities and new regulations that create an environment for empowerment. As the country gears for the upcoming general elections in 2022, we see a need to continue protecting and guarding the gains that have been achieved to date and continue to strengthen the capacity and partner with civil society to exercise their rights, create allies and partnerships and build coalitions for active citizenry.

## Political shifts

The current government and political regime have not been very open to criticism from civil society. This has led to curtailing freedom of expression and assembly; restrictive laws, excessive force by police, and censorship of media. Against this backdrop, however, and under the 2010 Kenyan constitution (current constitution), there has been noticeable progress in several fronts such as women's participation in high-level political leadership as a result of an increase in the election of women representatives at the county level. This is coupled with, Political Parties Fund (PPF) established to improve the participation of women, youth and People with Disabilities in the political process by providing them with access to more resources. The country has also documented some bills that show the level of progress the country is taking to ensure its citizens can enjoy their rights. One, in particular, that is of interest to Voice, since it is cross-cutting, is the Bill that seeks to establish a framework for the preservation of human dignity, promotion, monitoring and enforcement of economic and social rights. The **Preservation of Dignity and Enforcement of Economic and Social Rights Bill, 2018**, if enacted, obligates national and county governments to adopt and implement policies and programmes for protecting, respecting and promoting the realisation of economic rights by the vulnerable groups. **Economic shifts** The existence of the Access to Government Procurement Opportunities (AGPO) policy

where youth, women and persons with disabilities have access to 30% of government contracts, has continued to economically empower persons with disabilities through access to government contracts. It is notable that persons with disability have benefited from 6% of the government tenders issued. Whereas this is a positive step, there is a need to address supply-side and demand-side constraints that may be hindering them to have a higher uptake of the tenders. The adoption of laws related to youth has emboldened their position in society. The Copyright Act for instance provides space for youth to create and protect intellectual property such as digital content, music and literary works. This enables them to create their own employment by engaging in economic activities related to content creation. However, the Data Protection Act and the Computer Misuse and Cybercrimes Act regulate and control access and use of data and computer systems. The youth in Kenya continue to experience loss of social and economic power through lack of employment opportunities and joblessness as well as the use of alcohol and drug abuse. During the first quarter of 2020, the percentage of youth not in education, employment or training was recorded at 15.7%, which is an increase of 2.4% from the last quarter of 2019. These have predisposed them to be vulnerable to radicalisation and recruitment to engage in terrorism and organised crime. As a result, youth from informal settlements in the urban areas have been victims of police brutality.

### **Social shifts**

The government of Kenya, through the presidential directive in 2018 initiated the National Universal Health Coverage Programme which seeks to actualise 100% cost subsidy on essential health services, reducing medical out-of-pocket by 54% as a percentage of household expenditure. Some of the strategies adopted include low-cost health insurance, low-cost health facilities, access to essential medicines and medical supplies and an E-health system. Due to the rising trends of suicide, acts of violence and the burden of mental health conditions particularly among the elderly, gender and sexual minorities, an establishment of Presidential Taskforce in December 2019 was mandated to assess the increase in mental ill-health occurrences and recommend transformative solutions to the epidemics. The Mental Health (Amendment) Bill, 2018, currently at the Committee Stage, seeks to amend the Mental Health Act, Cap 248. Once enacted, the Act will expand the realisation of the rights of persons with mental illness, and enhance access to quality mental health and care. Such building blocks continue to be used as a basis for guiding lobbying of inclusive rights. One big milestone worth celebrating is the inclusion of intersex members of society as a gender category in the 2019 national population census and counted as a distinct population group. This is a positive milestone and policy change by formal gender categorisation in the national statistics. However, the country's leadership opinion of the LGBTIQ community as a "non-issue" in Kenya continues to heighten stigmatisation, profiling and abuse by society and law enforcers. Nonetheless, the LGBTIQ community are in the frontline lobbying and advocating for their rights as was witnessed in the [#Repeal162](#) case that the courts rejected and upheld that those provisions of the Penal Code are valid and constitutional.

### **(Invisible) power shifts**

Several power shifts have occurred in Kenya since the 2016/2017 Context Analysis was conducted. The visible shifts have occurred in the form of changes in the legal framework while invisible changes have occurred in the form of changes in practices both by the government and rightsholder groups. While there have been many positive shifts when it comes to the development of new regulations in Kenya, the largest problem the country faces is the lack of enforcement of these regulations. This result from the lack of resources and the persistence of a class of untouchables in Kenya that law enforcement is not able to properly investigate, apprehend and convict. As a result, many well-crafted regulations are never fully applied and often fail to meet their intended objectives.

## Covid-19

The Covid-19 pandemic has disrupted social and economic lives across the country. Some of the effects of the pandemic include loss of jobs and livelihoods as government directives on social distancing, cessation of movement in and out of Nairobi and Mombasa (which ended on 7th July 2020), loss of life, evictions from rented houses faced by some of the tenants and social distress experienced at different levels. These social and economic effects have also negatively affected the Voice rightsholders already experiencing marginalisation and exclusion especially due to limited social safety and support. The most significant impact has been the dramatic upsurge in violence against women. Furthermore, women are also on the frontline of the fight against the virus, placing them at higher risks of contracting the virus.

## Zooming in

### Voices behind the picture

A number of the regulations which have been passed over the last few years have been seeking to tap into the potential of the country's **youth** to grow new sectors. The Copyright Act in particular seeks to provide protection for the youth to create more content and to secure sources of income. However, the government has also been cautious to regulate against abuses in the digital space which is dominated by the youth through the Data Protection and Computer Misuse and Cybercrimes Acts. This generation of youth may therefore have a far stronger advocacy agenda for economic rights than other generations in history. They are extremely tech-savvy, with high access to the internet and technology which they have a high capacity to use to advocate for their rights. Additionally, provisions have also been put in place which seeks to increase access of the **youth** and the **elderly** to basic services, such as through the Health Act, while the Political Parties Act seeks to enhance participation of the youth in political processes through the establishment of the Political Parties Fund.

***“As the world evolve[s] so is the digital space, educating more people and helping them access the internet is a great opportunity for public participation and accountability.”***

Government policies and programmes aimed at improving the lives and livelihoods of **persons with disability (PWD)** have also not had the desired impact. For instance, 30% of government tenders allocated to women, youth and PWDs under the Access to Government Procurement Opportunities (AGPO) only 6% were awarded to PWDs. Many PWDs are unaware of their tax-exempt status meaning that a large number are paying taxes on items which they shouldn't. Several buildings or even modes of transport are not accommodating and accessible to persons with disability. There is therefore an undoubted need for more sensitisation on the different policies that exist and how PWDs can benefit from these.

***“An enabling environment already created by the Government of Kenya in ensuring that the rights of persons with disabilities are progressively realised.”***

Women in Kenya have also been positively impacted by the Basic Education (Amendment) Act, which provides school-going girls who have reached puberty access to sanitary towels as well as the Land Act which serves to protect the land rights of women. In addition, the Political Parties Fund (PPF), established under the Political Parties Act, also seeks to have more women involved in active politics. Despite having these provisions in place, **women continue to face violence, abuse and/or exploitation** in different sectors of society. Of main

significance is the heightened harassment of women online, particularly young LBQ women.

***“The use of feminist analysis to break down patriarchal systems and structures, tools of power to enforce gender norms and societal prejudices that lead to increases violence against women, has been pivotal in our work.”***

Kenya’s Data Protection Act, No. 24 of 2019 will go a long way in protecting the privacy and confidentiality of the **LGBTI people** in Kenya, who live in fear of being exposed in a deeply conservative society. The challenges that they face extend beyond physical violence. There is no legislation to guarantee protection from sexual orientation and gender identity discrimination in employment, health, housing and other social-economic spheres. The LGBTI community has, however, been making some progress through the courts in their drive to be recognized and protected under the law.

***“Due to [continued] criminalisation of same-sex conduct, there is rampant discrimination and violation of rights for persons of diverse sex, sexual orientation and gender identity.”***

**Indigenous groups and ethnic minorities** have also experienced positive power shift as a result of the enactment of legislation, especially the Community Land Act, which safeguards their land rights and the Protection of Traditional Knowledge and Cultural Expressions Act, which safeguards their traditional knowledge and cultural expressions. The victory in the landmark case taken by the Ogiek community to the African Court of Human and People’s rights solidified their claim to ancestral land. However, due to the political process that has a bias on tribal lines, ethnic minorities are normally excluded from having their members elected in voting areas where they are predominantly a minority. The constitution has, however, put a mechanism for them to be nominated to the legislative bodies. Despite these positive developments, some believe they are still inadequate.

***“International declarations and treaties on the rights and freedoms of indigenous people in which Kenya is a signatory are there but not implemented fully. For example, the United Nations Declaration on the Rights of Indigenous People is only a resolution and not binding but has a lot of suggestions on protecting the rights of indigenous people.”***

## **Their aspirations**

The rights enshrined in the 2010 Constitution remain an abstract aspiration for most Kenyans. Rightsholders continue to live their lives denied basic rights because of a combination of ignorance of the provisions that exist, lack of enforcement capacity from the government and lack of resources. Despite this, there exist several platforms that allow rightsholders to be able to seek their rights. For **people with disabilities**, they aspire for inclusive governance processes and the right to political participation, especially for women. This is in line with having proper access to voting stations or having equal opportunities to run for office. As an effort to address unemployment, integrated education for **young people with disabilities** that leads to understanding the technical skills required to set up businesses that create reasonable and decent employment. For **women facing violence, abuse and/or exploitation** personal security and establishment of policies to promote safe workplace settings is high on the agenda, while also lobbying for equal and fair labour practices. The consultations with grantees also underlined the need for social and economic support for **vulnerable elderly and youth**. Like for elderly caregivers, mostly women, who take on the responsibility to care for their

grandchildren. There is also a quest to have members of the household who is gainfully employed, included in the cash transfer programme. **Indigenous Peoples and ethnic minorities** want to be able to have legal documentation for use in accessing basic needs, specifically, Statehood and identity for the Shona community or Land security for the Nubian community in Kibera. Compensation for indigenous groups evicted from public forests and comprehensive integration in sustainable forest management such as the Ogiek community in Kenya. Access to employment opportunities in the public and private sector by advocating for affordable access to quality education in the regions inhabited by these communities thus enhancing their financial security Data to segregate the specific needs for **LGBTI people** specifically the Intersex community is limited thus the push by the community on the Government to have digital and offline data that is to be used to influence the categorization of their needs. Upholding the right to personal dignity by allowing access to health facilities and protection from homeowners who rely on fundamentalist principles of how a family construct should look like in influencing their reasoning in leasing their properties.

## *Zooming out*

### **Fostering change**

With Kenya's next elections set to take place in 2022, there is undoubtedly a fear that the problems that plague the country every election cycle (namely negative ethnicity, political violence and exploitation of vulnerable populations) will arise once more. Campaigning and political maneuvering has already started, and not even the Covid-19 pandemic has been able to dampen it. This may hinder working with government departments. In the lead-up to the elections, Voice needs to empower grantees to guard against the erosion of the gains that have taken place since the promulgation of the 2010 constitution. Voice in Kenya will take into consideration the best advocacy modalities of working with a non-receptive government to the civil society. The rightsholders have recognised the value of forging strategic partnerships and collaborations through strategic alliances. There will be a need to engage more allies like religious leaders to help influence some of the policies being discussed in parliament that affect the overall implementation of projects by Voice rightsholder groups. Additionally, build and enhance on synergies with stakeholders such as the International Commission of Jurists (ICJ) Kenya and Kituo cha Sheria who can strengthen rightsholders capacity in legal aid and public interest litigation. With different vulnerable subgroups within the main social groups, an increased focus on intersectionality is emphasised. We want to tie up the specific needs of Voice rightsholders groups such as elderly LGBTI groups whose needs may be different. Therefore, the following topics are high on our agenda for the coming years:

- Integrate an intersectionality lens on initiatives seeking to empower and influence rightsholder groups.
- Sustainability of rightsholder initiatives through the development of frameworks to support long term impact.
- Establish and maintain collaborations and partnerships between Voice, allies and stakeholders.
- Evaluate the impact of Covid 19 on the rightsholders and develop strategies to address increased marginalisation
- Support strategies to Guard Against the Erosion of Gains in the Run-up to the 2022 Elections

The forthcoming Calls for Proposals will be based on these priorities -although other new ones may come up that require further attention.