



Institute of
Economic Affairs

Assessment of Socio-economic Rights under CoK 2010

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**Constitutional, Law & Economy
Programme**

Outline

- i. Background
- ii. Economic & Social Rights
- iii. Rights of Children
- iv. Persons with Disabilities
- v. Trends in Kenya's HDI
- vi. Poverty
- vii. Conclusions

Objectives of the Assessment

1. Show Constitutional underpinnings of socioeconomic rights in the CoK 2010
2. Assessment of Kenya's progress on socioeconomic indicators

Content Analysis (CoK 2010)

- i. Economic: 28 words
- ii. Economy: 2 words
- iii. Economies: 1 word
- iv. Social: 18 words
- v. Rights: 136 words

Kenya's Constitutional Context Socioeconomic Factors

1. Combination of Social, Economic Factors
2. Socieconomic: Social economics branch of economics
 - focuses on the relationship between social behaviour and economics.
 - concerned with the interplay between social processes and economic activity within a society.
3. Socieconomic Indicators: economic output, Incomes (including Poverty), Education, Health
4. CoK 2010 provides a basis for interventions in improving socioeconomic indicators

8 Economic & Social Rights (Article 43)

Every person has the right—

- i. highest attainable standard of health, which includes the right to health care services, including reproductive health care
- ii. to accessible and adequate housing, and to reasonable standards of sanitation
- iii. to be free from hunger, and to have adequate food of acceptable quality
- iv. to clean and safe water in adequate quantities
- v. to social security
- vi. to education
- vii. A person shall not be denied emergency medical treatment.
- viii. The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.

Article 21 (2 & 3)

1. The State **shall** take legislative, policy and other measures to achieve progressive realisation of the rights guaranteed under Article 43.
2. All State organs and all public officers have the duty to address the needs of:
 - i. vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

Rights of Children (Article 53)

Every child has the right—

- i. to a name and nationality from birth
- ii. to free and compulsory basic education
- iii. to basic nutrition, shelter and health care
- iv. to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour
- v. to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not
- vi. not to be detained, except as a measure of last resort, and when detained, to be held
 - i. for the shortest appropriate period of time
 - ii. separate from adults and in conditions that take account of the child's sex and age.

Persons with disabilities (Article 54)

A person with any disability is entitled—

- i. to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning
- ii. to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person
- iii. to reasonable access to all places, public transport and information
- iv. to use Sign language, Braille or other appropriate means of communication
- v. to access materials and devices to overcome constraints arising from the person's disability.
- vi. The State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.

Protections that reinforce Socioeconomic factors

1. Rights of the Youth, Minorities & Marginalized groups, older persons (Article 55,56 & 57): “Introduces Power of Affirmative Action”
2. Freedoms of Association, Movement, Political rights, Demonstration & Petitioning & Picketing

Foundational Problem in Economic Policy

Expanding Economic Output

- Incomes
- Labour force Participation

CoK 2010 seeks other issues

- Improve welfare (Require direct intervention for the vulnerable)
- Reduce inequality (Drive Economic Economic Policy in a manner that reduces inequality)

Guarantees to a Certainty in Economic Policy

1. Consumer Rights (Article 46)
2. Fair Administration action (Article 47)
3. Environmental Protection (Article 42 & 70)
4. Right to Fair labour practises (Article 41)
5. Right to Property (Article 40)
6. Fair Taxation (Article 201)
7. An efficient Judicial System: Chapter 10
8. An efficient PFM system: Chapter 12
9. A constitutionally ran law enforcement system: Chapter 14

Trends in Performance of Socioeconomic Rights

Trends in Kenya's HDI 1990 – 2021

HDI value (2021)

0.575

Human development classification

Medium

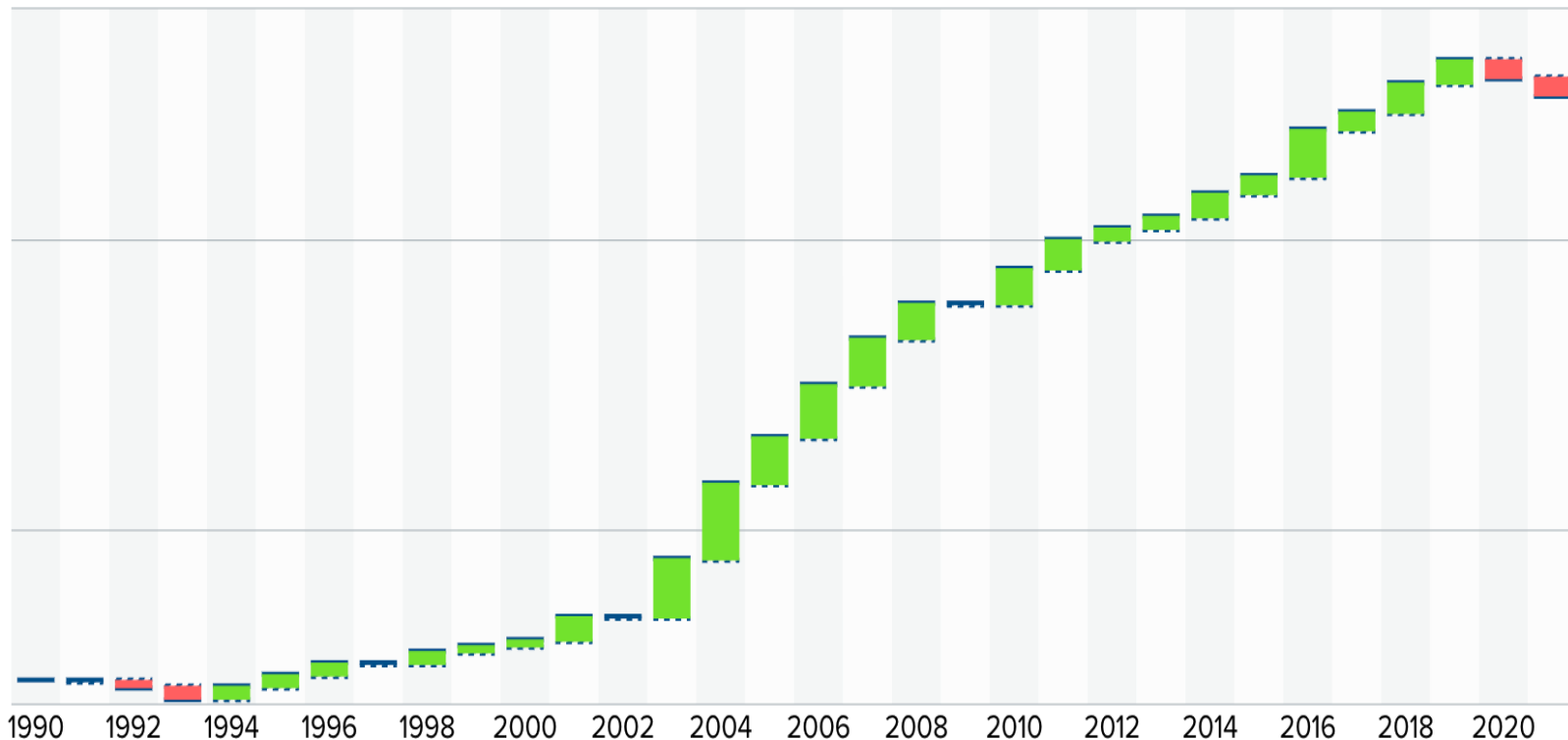
Developing region

Sub-Saharan Africa

KENYA'S HDI RANK: 152



— Current year - - - Previous year ▲ Increase ▼ Decrease



Kenya

2010 HDI value 0.545

HDI change from 2009 **+0.006**

Life expectancy at birth 60.6 years

Expected years of schooling 10.3 years

Mean years of schooling 6.2 years

Gross National Income per capita 3,247 (constant 2017 PPP\$)

Kenya

2021 HDI value 0.575

HDI change from 2020 **-0.003**

Life expectancy at birth 61.4 years

Expected years of schooling 10.7 years

Mean years of schooling 6.7 years

Gross National Income per capita 4,474 (constant 2017 PPP\$)

Comparative Sense (2021)

Kenya

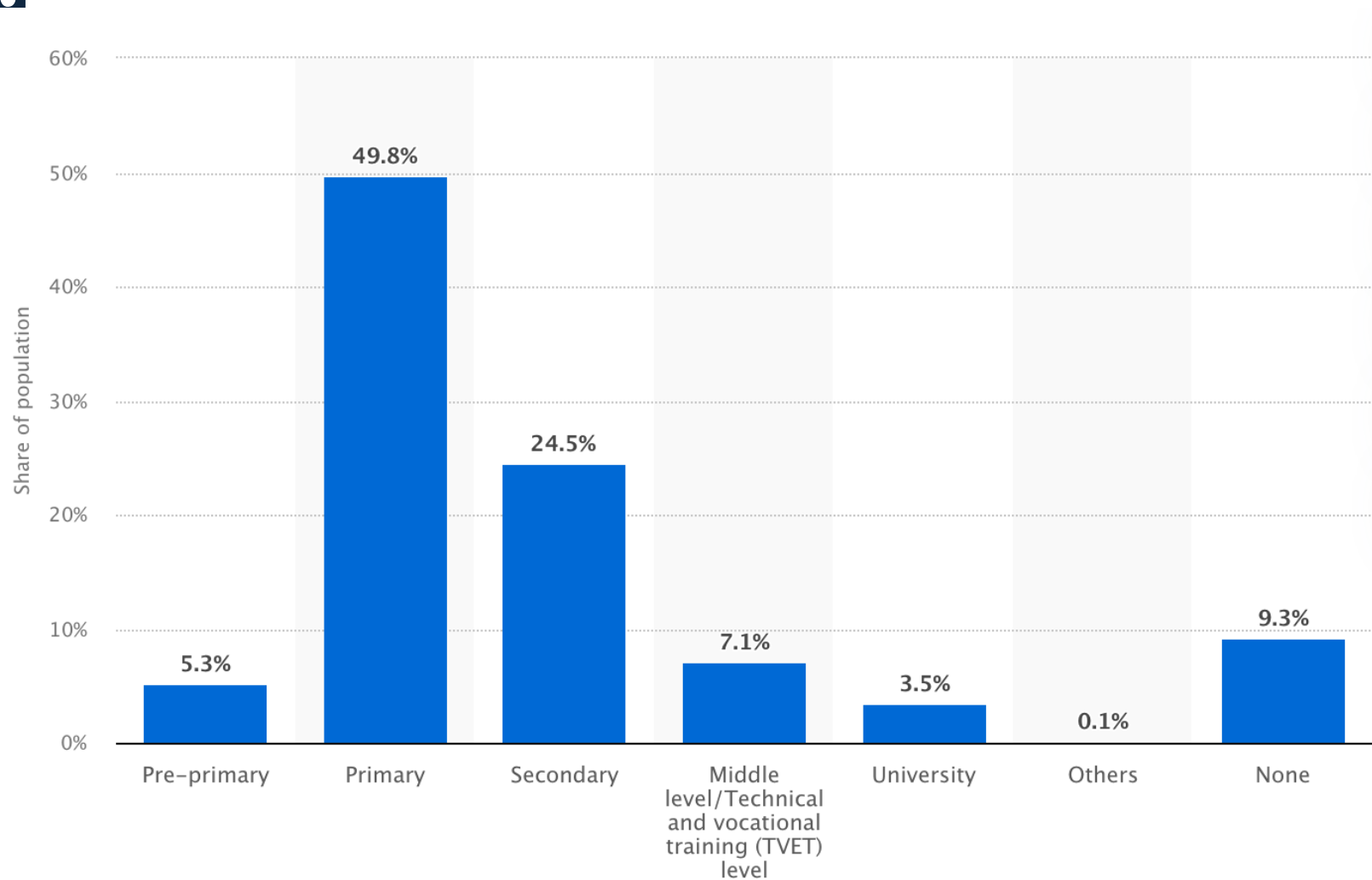
Kenya	
2021 HDI value	0.575
HDI change from 2020	-0.003
Life expectancy at birth	61.4 years
Expected years of schooling	10.7 years
Mean years of schooling	6.7 years
Gross National Income per capita	4,474 (constant 2017 PPP\$)

Botswana

Botswana	
2021 HDI value	0.693
HDI change from 2020	-0.020
Life expectancy at birth	61.1 years
Expected years of schooling	12.3 years
Mean years of schooling	10.3 years
Gross National Income per capita	16,198 (constant 2017 PPP\$)

Source: <https://hdr.undp.org/data-center/specific-country-data#/countries/KEN>

Population in Kenya as of 2019, by highest level of education completed



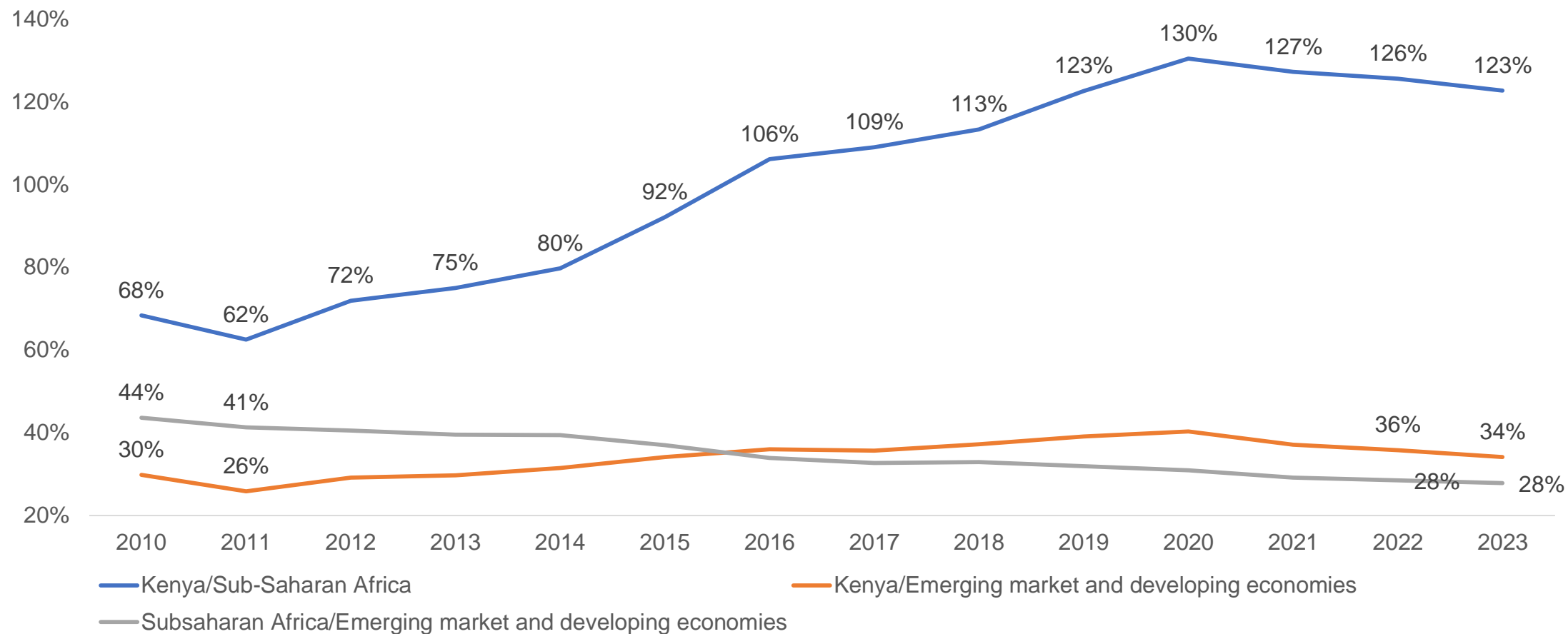
Source: KNBS KPHC 2019

Incomes (GDP Per Capital, Current (\$))

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Kenya	1176	1187	1396	1490	1611	1619	1689	1807	1983	2109	2067	2216	2278	2269
Sub-Saharan Africa	1723	1900	1943	1988	2019	1759	1592	1658	1751	1720	1585	1742	1814	1850
Emerging market and developing economies	3949	4605	4803	5028	5121	4752	4696	5074	5333	5396	5133	5979	6365	6666

Source: IMF, KNBS

Slowing Progress



Poverty Headcount Measures

Residence	Headcount Poverty Measures	Poor Individuals $P_{\alpha=0}$		Poor Households $P_{\alpha=0}$		Poor People (Adult equivalent-Adulteq) $P_{\alpha=0}$	
		(% of Population)	(Number of people in thousands)	(% of Households)	(Number of households in thousands)	(% of Adulteq)	(Number of Adulteq in thousands)
National	Food Poverty	30.5	15,112	28.0	3,549	31.2	12,532
	Overall Poverty	38.6	19,122	34.7	4,405	38.7	15,531
	Hardcore Poverty	5.8	2,879	4.9	625	5.7	2,300
Rural	Food Poverty	32.2	10,861	29.4	2,269	32.9	8,919
	Overall Poverty	40.7	13,720	38.0	2,932	40.9	11,095
	Hardcore Poverty	7.8	2,641	7.3	563	7.8	2,110
Urban	Food Poverty	26.8	4,251	25.8	1,280	27.8	3,613
	Overall Poverty	34.1	5,402	29.7	1,473	34.1	4,436
	Hardcore Poverty	1.5	238	1.3	62	1.5	190

Source: Kenya Poverty Report 2021

Conclusions

- Size of Government
- State Capacity (Failure?)
- Legitimacy of the State
- Accountability
- Prosperity