



Institute of
Economic Affairs

Unpacking the Finance Bill, 2024 Dissent: Legal, Economic and Constitutional Perspectives

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Outline

1. Kenya's Finance Bill, 2024 (Gen Z) protests?
2. Problems
3. Finance Bill, 2024
4. Policy Issues: Parliament, Executive
5. Economic Trends
6. Conclusions

Kenyan Finance Bill, 2024 (Gen Z) Protests

1. Driven by youth frustrated with economic hardship and government policies.
2. Ignited by the controversial Finance Bill 2024, seen as increasing the burden on citizens.
3. Key issues: High cost of living, High unemployment (68% youth), perceived government mismanagement.
4. Organized largely through social media (#RejectFinanceBill2024).
5. Forced government to reconsider the Finance Bill, but deeper concerns remain.
6. Demonstrates the rising political voice of Kenyan youth demanding change.

Problems?

1. Failure of Doctrine of Separation of Powers (MP's lawmaking function perceived to be harmful to ordinary Kenyans).
2. Trust Deficit in Leadership. Article 10 values of CoK 2010 downplayed
3. Debt Crisis. Treadmill. Revenues have to run faster than Expenditure.
4. Underperformance of Labour market (formal sector is only 3m of 22m)
5. Fiscal consolidation affecting service delivery.
6. Kleptocracy and Conspicuous spending.
7. Crisis in an Equilibrium setting (Collision of many factors)

Finance Bill, 2024: Policy Context Issues

1. Omnibus Bill (problematic manner of amending the Tax Code)
 1. Manner in which finance bill is drafted
 2. Number of clauses being amended
2. Public Participation issues; Location issues, Period of public participation, Reasons MP's gave for rejection of the Bill
3. Extent of yearly revisions; affects the "Public trust"
4. No evidence of basis for yearly revisions. Mostly arbitrary

Constitutional Issues

1. Constitutional rights and economic freedoms
2. Separation of Powers
3. Disregard for the rule of law

Parliament

1. CoK 2010 gives Parliament powers of the Purse (Article 95(4)b)
2. Parliament's Abrogation of Functions
3. Earmarks i.e. CDF drive the need for bigger budgets
4. Legitimacy concerns

Executive: PEA Issue (Hold on Budgets)

1. Majority of Budget
2. Significant part of it is in State Corps
3. Misprioritization
4. Fiscal responsibility and economic management
5. Wastage and graft

Failure in Institutions of Parliament

- **PBO as currently designed, couldn't help resolve incentive structure Parliament already faces**

Case Example: Congressional Budget office versus PBO Kenya

- **CBO:** Acts as a referee between the President and Congress in a system designed for potential conflict.
- **PBO:** Empowers the legislature to hold the executive accountable in a system where they are more closely intertwined.

Key Issues: Independence, Hiring, Resources, Political support

Reform of PBO

1. Revenue Forecasting and Analysis:

- **What CBO does:** Provides detailed revenue projections under current law and analyzes the potential impact of proposed tax changes on government revenue. This includes distributional analysis, showing how different income groups would be affected.
- **What PBO could add:** Develop sophisticated models to forecast tax revenue considering economic factors, taxpayer behavior, and specific provisions of the tax code. This requires access to detailed tax data and expertise in revenue estimation techniques.

2. Tax Expenditure Analysis:

- **What CBO does:** Regularly publishes a comprehensive "Tax Expenditure Budget" that identifies and quantifies tax breaks, deductions, and credits. This helps Congress understand the cost of these provisions and their impact on different groups.
- **What PBO could add:** Develop a similar Tax Expenditure Budget for Kenya, analyzing the costs and benefits of various tax incentives. This promotes transparency and informs decisions about tax policy trade-offs.

3. Microsimulation Modeling:

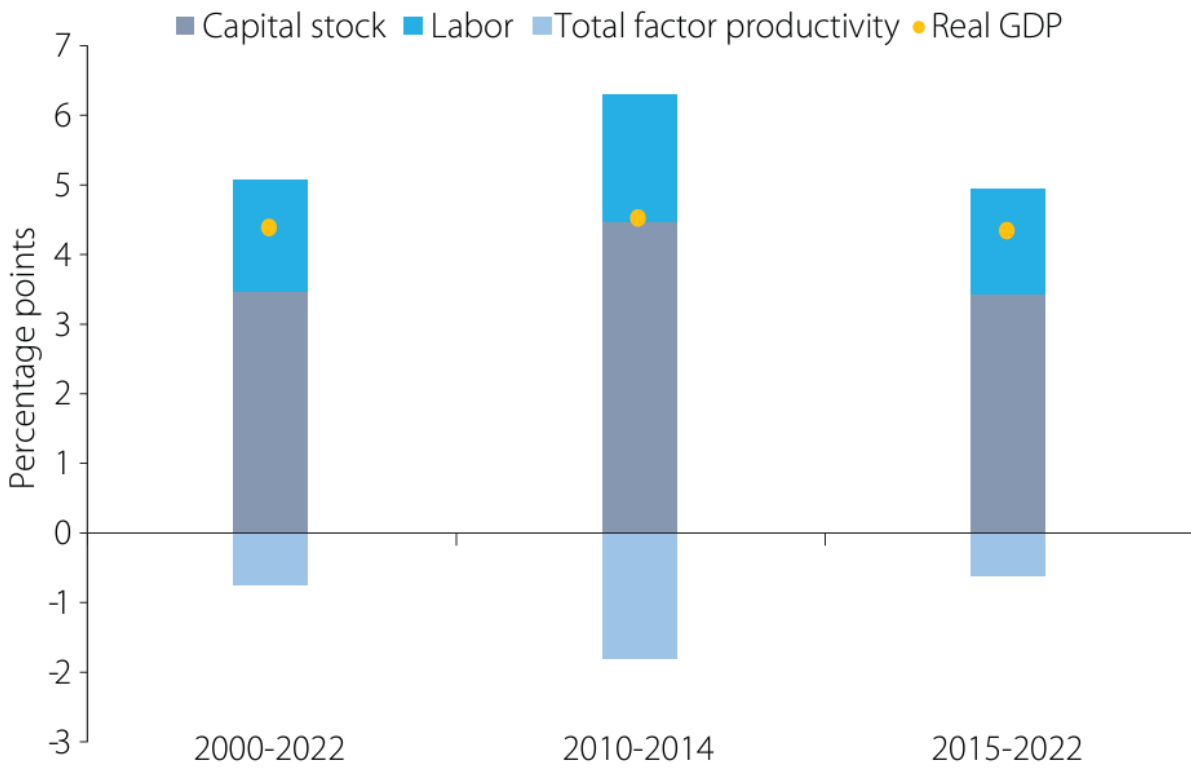
- **What CBO does:** Uses microsimulation models to estimate the distributional effects of tax policies on different households. This helps understand how changes to tax rates, deductions, or credits would impact various income groups.
- **What PBO could add:** Invest in developing or acquiring microsimulation models calibrated to the Kenyan context. This requires detailed household income and expenditure data but provides valuable insights into the equity and distributional impacts of tax policies.

4. Tax Policy Options and Research:

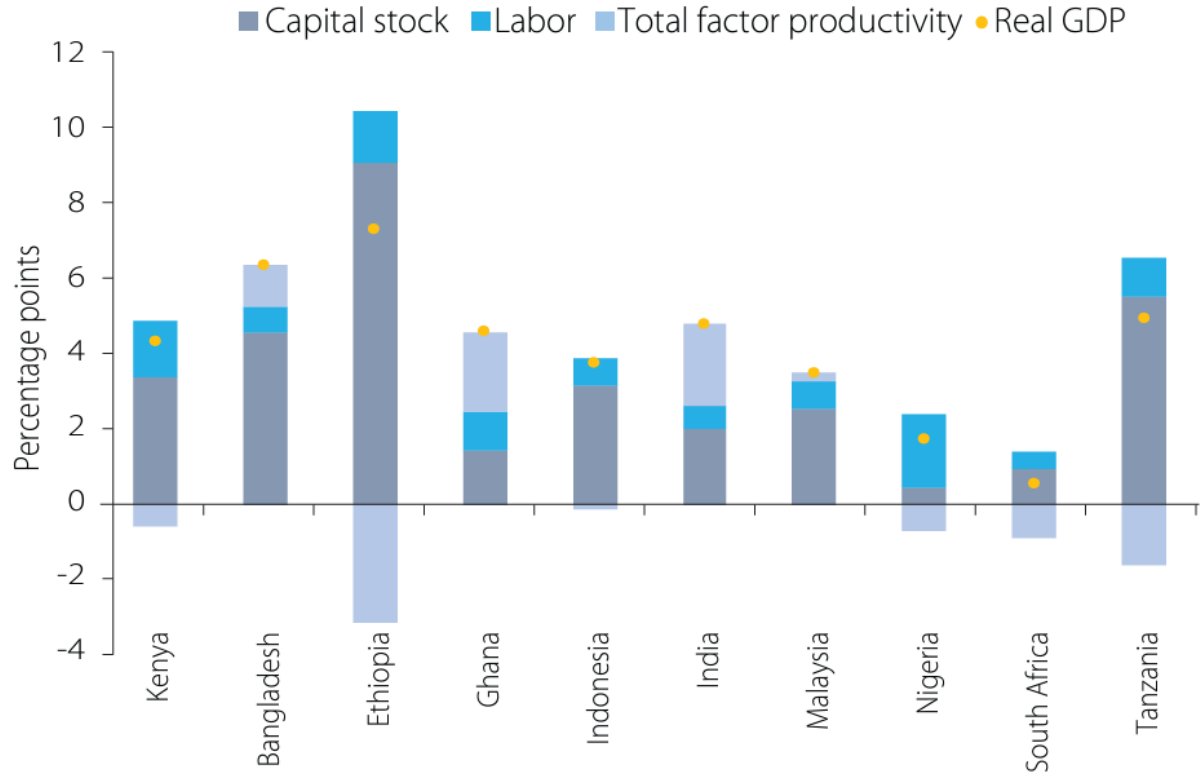
- **What CBO does:** Conducts research and publishes reports on broader tax policy issues, such as tax reform options, international tax comparisons, and the economic effects of different tax structures.
- **What PBO could add:** Proactively research and analyze key tax policy challenges facing Kenya, such as tax base erosion, tax compliance, and the impact of globalization on tax revenue. This can inform public debate and provide policymakers with evidence-based options.

Productivity lever untapped in Kenya's growth performance trend

A. Productivity lever untapped in Kenya's growth performance trend



B. Looking at aspirational peers



Source: World Bank 2023.

Changes in Wage Employment, Prices and Real Earnings, 2019 - 2023

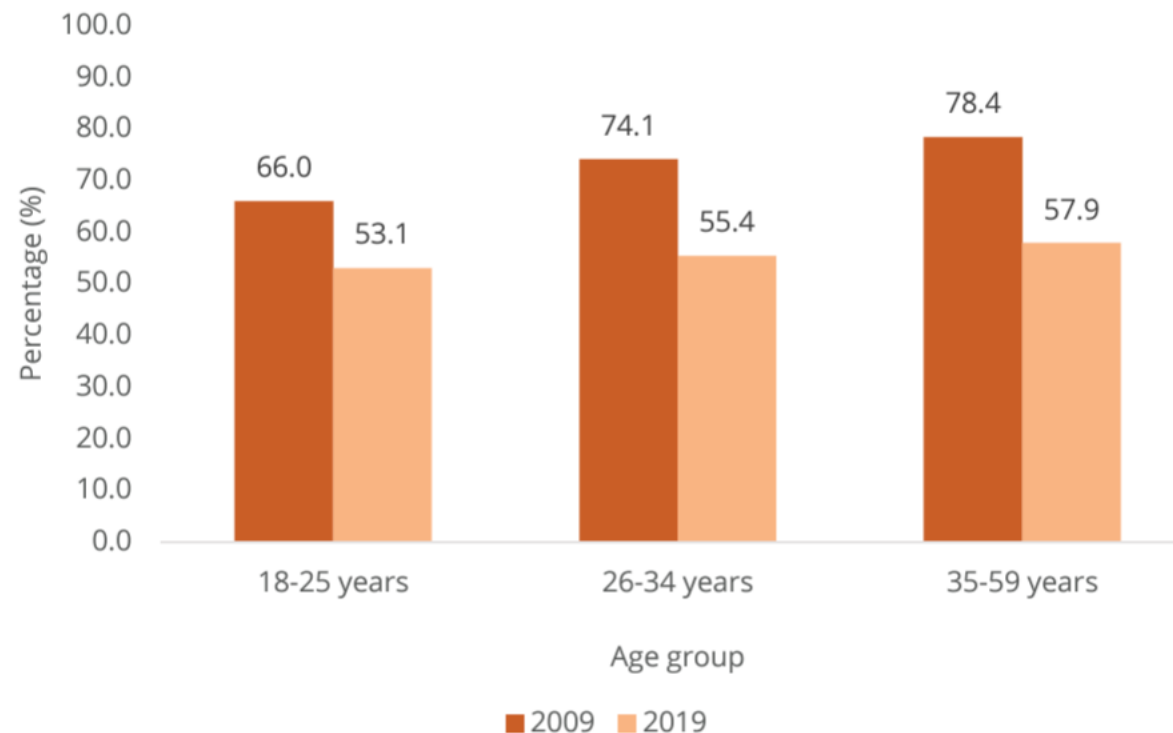
	<i>Per cent</i>				
	2019	2020	2021	2022	2023*
Wage employment	2.4	-6.3	6.0	3.8	3.5
Average earnings at current prices	4.9	1.7	2.9	4.6	2.8
Inflation ¹	4.8	4.6	6.3	7.9	7.9
Real average earnings	2.7	-1.4	-3.8	-3.2	-4.1

* *Provisional*

¹*June inflation using a base year of Feb 2019=100*

Source: Economic Survey 2024

Percentage (%) of youths and adults deprived in the economic activity dimension, by age group, 2009 and 2019



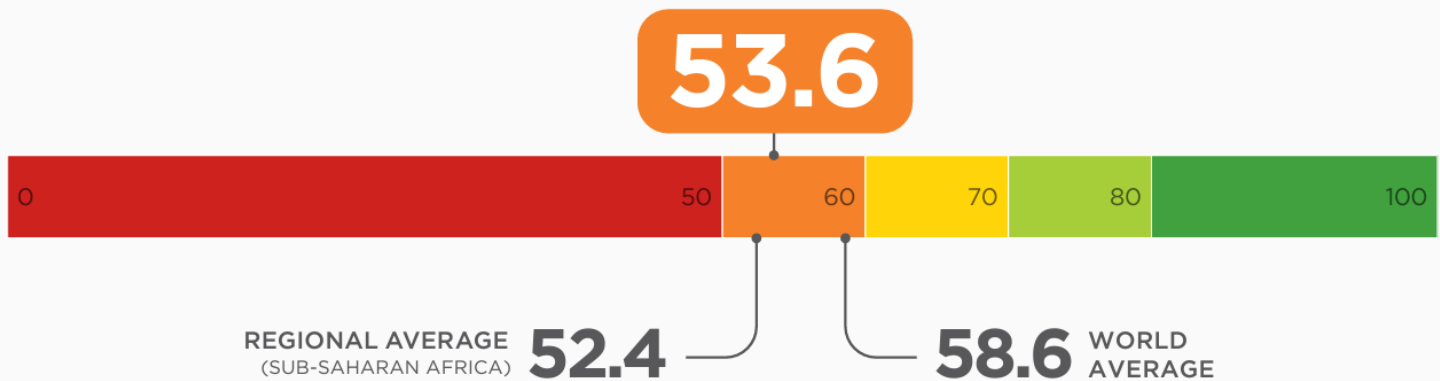
Source: KPHC 2009 and KPHC 2019

Summary trends in poverty incidence between 2015/16 and 2021, share of population (%)

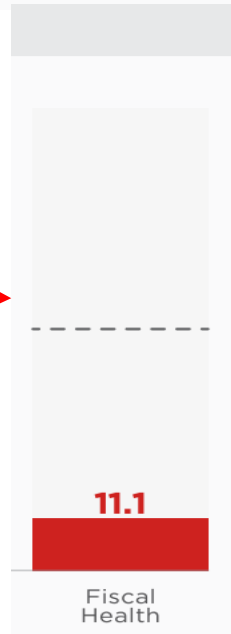
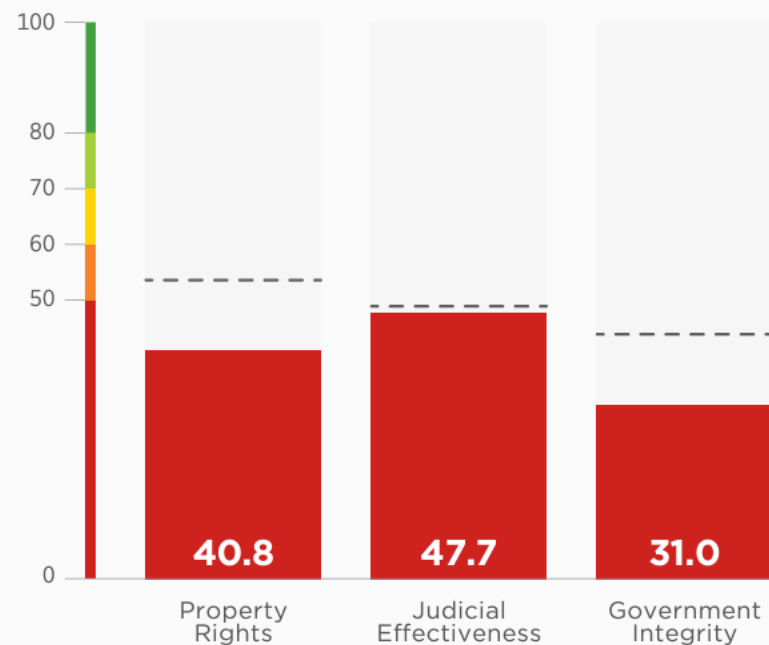
Indicator	Place of Residence	Poor Individuals 2015/16 P _{α=0}	Poor Individuals 2019 P _{α=0}	Poor Individuals 2020 P _{α=0}	Poor Individuals 2021 P _{α=0}	1 year Change, Percentage Points
Overall Poverty Rate (%)	National	36.1	33.6	42.9	38.6	-4.3
	Rural	38.8	37.0	43.5	40.7	-2.8
	Urban	29.4	26.0	41.7	34.1	-7.6
Food Poverty Rate (%)	National	32.0	30.5	34.4	30.5	-3.9
	Rural	35.0	34.0	35.1	32.2	-2.9
	Urban	24.4	22.5	33	26.8	-6.2
Hardcore Poverty Rate (%)	National	8.6	8.3	7.1	5.8	-1.3
	Rural	10.7	10.9	9.1	7.8	-1.3
	Urban	3.4	2.7	2.8	1.5	-1.3
Distribution of the Overall Poor (%)	National	100	100	100	100.0	0.0
	Rural	76.8	76.1	69.2	68.6	-0.6
	Urban	23.2	23.9	30.8	31.4	0.6
Population Living in Overall Poverty (Millions)	National	16.4	15.8	20.9	19.1	-1.8
	Rural	12.6	12.1	14.5	13.7	-0.8
	Urban	3.8	3.7	6.4	5.4	-1.0
Population Distribution (%)	National	100	100	100	100.0	0.0
	Rural	71.6	69.1	68.3	68.0	-0.3
	Urban	28.4	30.9	31.7	32.0	0.3

Economic Freedoms..2024

ECONOMIC FREEDOM SCORE



RULE OF LAW



Kenya's Fragility

Kenya

KEN



Select Country

Kenya

86.5

FSI Score in 2024
(Maximum 120)

36th

FSI Rank in 2024
(179 Countries)

-1.3

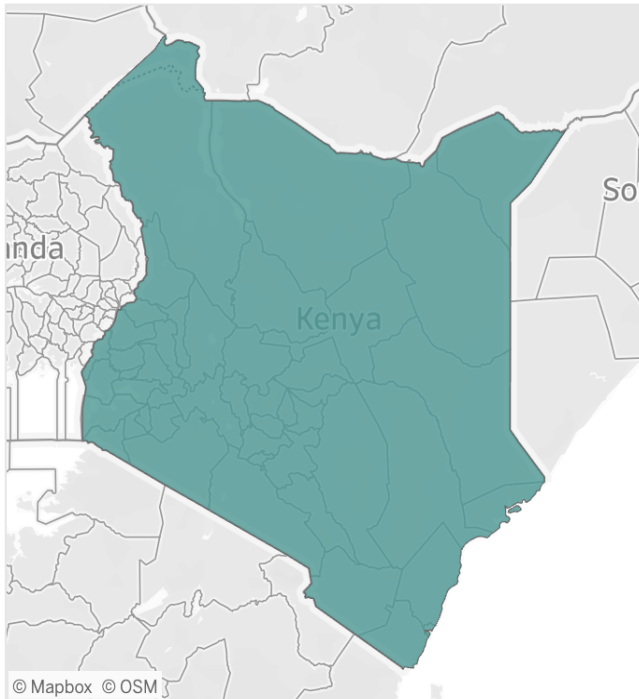
Points Change from
Last Year

-7.0

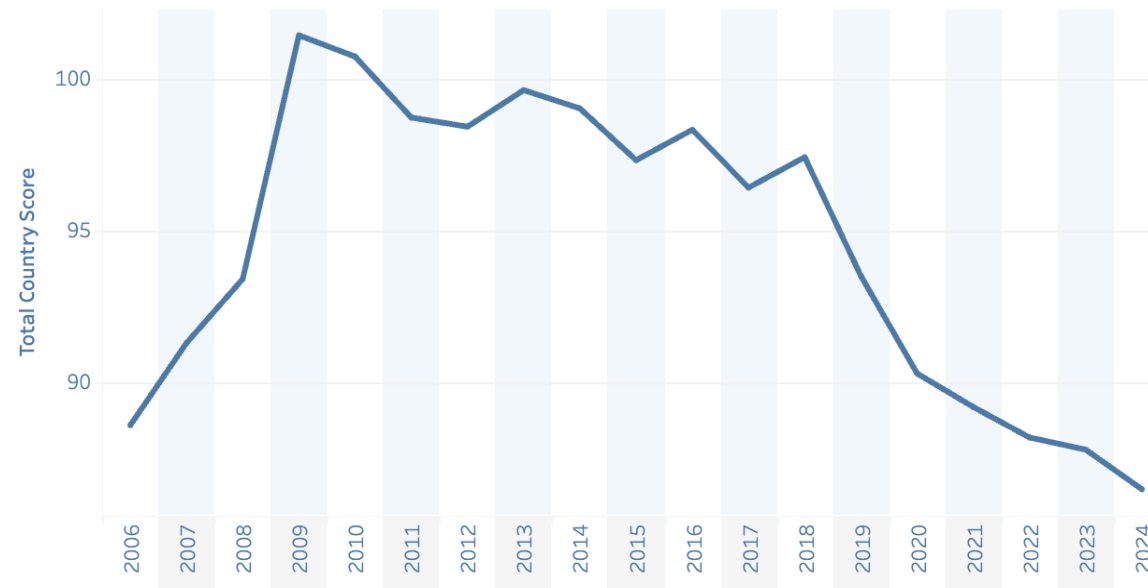
Points Change Over
Five Years

-12.5

Points Change Over
Ten Years



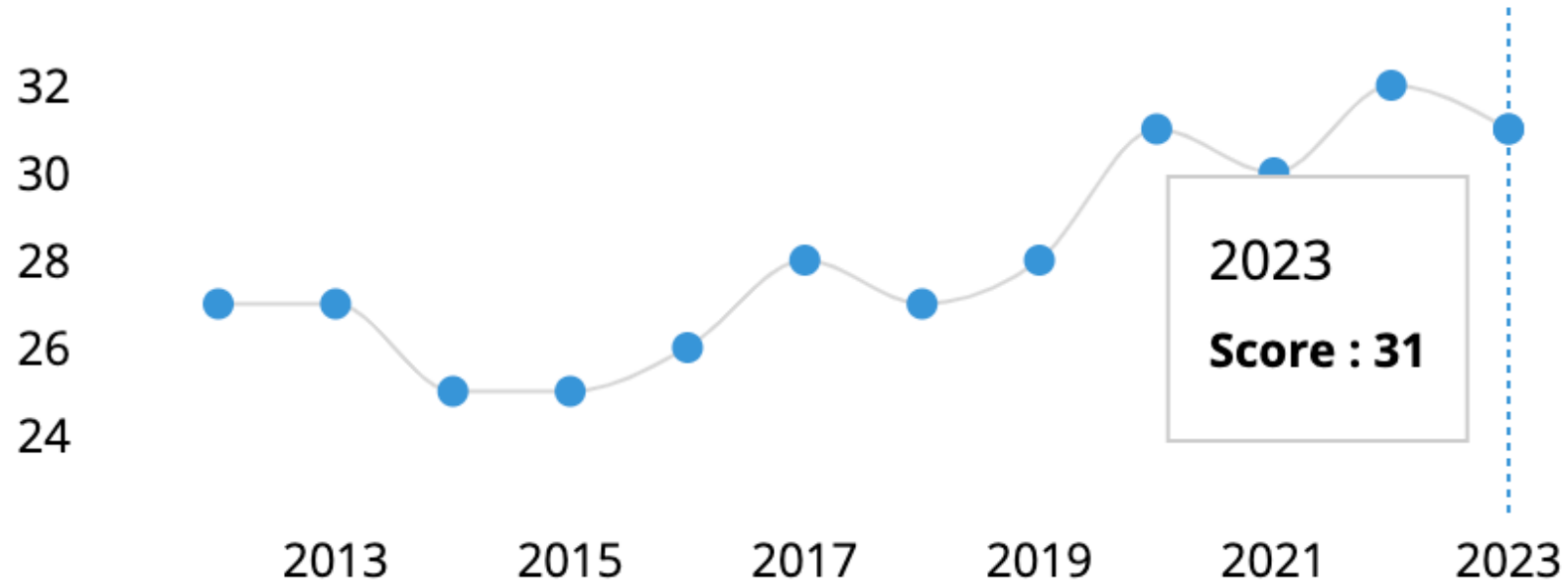
OVERALL TREND, 2006-2024:
Kenya



The Fragile States Index measures state fragility across four dimensions:

1. Cohesion: Risk of internal conflict (security forces, elite factionalism, group grievances).
2. Economic: Economic health and stability (decline, inequality, brain drain).
3. Political: State legitimacy and effectiveness (public trust, services, rights, law).
4. Social: Broader societal and external factors (demographics, refugees, external influence).

Kenya's Corruption Perception Index



Score
31/100

Rank
126/180

Conclusion

1. Consensus Building in Policy
2. Falling State Fragility
3. Too many balls
4. Constitutional crisis issue
 1. Effectiveness, Efficiency & Independence of Parliament
 2. The Place of Judicial oversight
 3. Reimagining powers of Constitutional Commissions