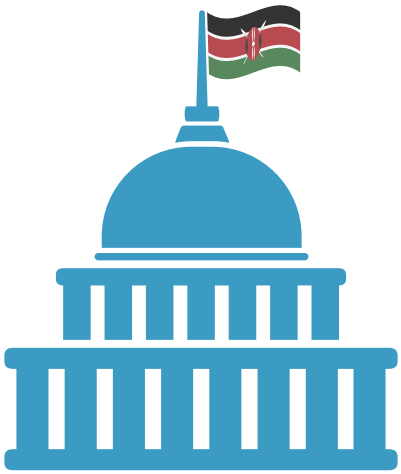


Climate Action Tracker

Climate Governance

CAT Climate governance series

KENYA

December 2020

CLIMATE ANALYTICS

NEW CLIMATE INSTITUTE

CAT Climate Governance series

Under the Paris Agreement, governments have committed to limiting temperature increase to well below 2°C above pre-industrial levels and pursuing efforts to limit it to 1.5°C. Achieving this objective will require global greenhouse gas emissions to peak by 2020, reduce by 45% below 2010 levels by 2030 and be reduced to net zero around 2070, with carbon emissions reaching net zero around mid-century, with negative emissions thereafter.

Governments in all countries play a critical role in enabling this transformation, which involves action from all aspects of society and the economy.

The Climate Action Tracker (CAT) tracks the progress of countries towards achieving the climate targets they have set for themselves under the Paris Agreement and what the combined effect of these commitments and policies mean for global temperature levels at the end of this century.

In this series, the CAT expands on its country analysis to evaluate the ability and readiness of national governments to enable the required economy-wide transformation towards a zero emissions society.

Our assessment focuses on national governments and analyses four aspects of governance covering key enabling factors for effective climate action:

- the political commitment of the government to decarbonisation,
- the institutional framework it has put in place to achieve its emission reduction targets,
- the processes it has established to develop, implement and review mitigation policies, and
- its ability and willingness to engage with relevant stakeholders on policy development.

In 2019, we analysed **Argentina**, **Australia**, **Indonesia**, **Kenya**, **the Philippines** and **South Africa**. In 2020, we updated the **Kenya** and **South Africa** analyses as well as assessed **Ethiopia** for the first time.

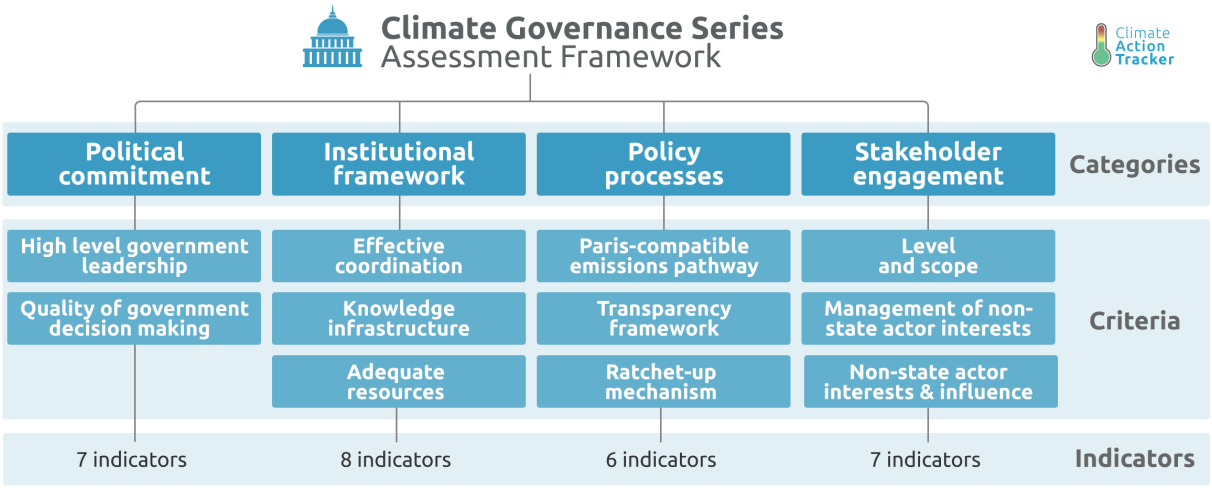
The Climate Governance Series seeks to offer a standardised and replicable approach to assessing a government's ability and readiness to achieve the required transformation, highlighting positive developments and areas for improvement.

http://climateactiontracker.org/publications/climate-governance

Legend

Understanding our indicators

This report series seeks to produce a standardised and replicable approach to assessing a country's readiness to transition to a zero emissions society. To achieve this, we have assessed a number of possible indicators under four broad categories and eleven criteria. **Criteria** are marked in bold text throughout this document.



Understanding our rating system

Our rating system highlights positive developments within countries, identifies areas of improvement, and establishes a basis on which to compare climate governance across countries.

Each individual indicator has been assessed and given a score. The categories and criteria linked to those indicators are then given a rating based on those scores.

Very Poor	**≤ 20% of possible score** This rating indicates that the government is deficient and improvement is necessary.
Poor	**20 –40% of possible score** This rating indicates that the government is showing a limited level of readiness but improvement is still necessary.
Neutral	**40 –60% of possible score** This rating indicates that the government is showing some level of readiness, but improvement is still necessary.
Acceptable	**60-80% of possible score** This rating indicates that the government is showing a good level of readiness, although improvement is still possible.
Advanced	**≥ 80% of possible score** This rating indicates that the government is functioning well, although improvement is still possible and beneficial.

Executive summary

National level readiness

Kenya's political commitment to climate change mitigation issues is evident - the President and line ministries support climate mitigation action. However, leadership from the head of state and leading institutions could take a more proactive stance on scaling up climate action domestically and drive the transition to a zero emissions economy and society. Greater autonomy and power for the Climate Change Directorate would further advance the development and implementation of climate mitigation policies aimed at Kenya's zero emissions transition.

The institutional framework of Kenya is clearly defined and enshrined in law, but the coordination between ministries, and between national and county levels is not yet effective. As a result, climate change and the fulfilment of national climate change mitigation targets are not consistently included in all sectoral plans. While the national climate change lead agency has qualified staff, its budget is insufficient to enable effective implementation of some statutory tasks, such as the analytical support to sector ministries, which could be improved.

Evidence suggests that efforts are underway to establish processes for climate policy development, implementation and review. However, Kenya does not yet have long-term emissions reduction strategies and targets. While the contours of a comprehensive transparency framework in line with the country's climate law are in place, these are not yet widely applied across sectors. It is therefore difficult to assess the effectiveness of policy measures being implemented and whether the sectors' contours are on track to meet their targets. Whether domestic climate action becomes progressively more ambitious will be seen once the country has published its revised NDC, which is currently under development.

The Kenyan Government has shown a moderate approach to stakeholder engagement. While policy documents acknowledge the importance of public awareness and the government regularly involves stakeholders in planning processes, there is scope to improve public participation and access to information. In particular, actors who would profit from the transition to a zero emissions society and those who live in marginalised areas have limited influence on decision-making processes.

There have been no substantial developments in Kenyan climate governance since the publication of the National Climate Change Action Plan (NCCAP) 2018-2022, which was included in the CAT's last assessment for Kenya. The government is still in the process of implementing the climate governance structures set out in the 2016 Climate Change Act. Further, the Kenyan Government plans to publish its updated NDC in the coming months, and has initiated the process of developing the country's "2050 Long-Term Greenhouse Gas Strategy and Carbon Resilience Development Pathway under the Paris Agreement". The updated NDC and the Long-Term Strategy (LTS) will reveal whether the structural and institutional measures that have been established will result in adequate climate mitigation action. Similar to Kenya's 2030 Vision and the President's Big Four agenda, climate change or transition-related aspects are also not a priority in the country's economic stimulus program, which is intended to support vulnerable citizens and companies affected by COVID-19.[1]

[1] The analysis for this report was completed in October 2020.

Category	Criteria	Recommendations
Political commitment	High-level government leadership Quality of government decision making	• Strengthen the political commitment on climate mitigation – and the transition to a zero emissions society – at the highest government levels. • Prioritise climate issues in the national development agenda and other policy plans. • Strengthen the Climate Change Directorate's mandate to drive the necessary policy and regulatory developments for the transition.
Institutional framework	Effective coordination Knowledge infrastructure Adequate resources	• Improve coordination between the national government and county governments, as well as between line ministries. • Ensure that all line ministries align their policies with the country's NDC target and consider the transition to a zero emissions economy and society in their policies. • Ensure the Climate Change Directorate has sufficient resources to adequately implement its statutory tasks as mandated by the Climate Change Act, such as the provision of analytical support to the various line ministries.
Policy processes	Paris-compatible emissions pathway Transparency framework Ratchet-up mechanism	• Set a long-term 1.5˚C-compatible emissions reduction target and develop plans to achieve this target. • The Climate Change Act needs to be strengthened by including a Paris aligned emissions reductions target. • The Energy Act needs to include a sectoral emissions reductions target that is aligned with the Paris Agreement with a plan to decarbonise the energy mix. • Ensure that all sectors implement an MRV framework as required under the Climate Change Act to track and report on progress on climate action.
Stakeholder engagement	Level and scope Management of non-state actor interests Exogenous non-state interests and influence	• Ensure that the existing channels for the participation of the Kenyan public in the decision-making process are being used effectively so that governmental decisions reflect the different opinions. • Improve the stakeholder consultation process to enable non-state actors from marginalised areas to participate in decision-making processes.

Contents

1 Introduction

1.1 Domestic context

Kenya is a multi-party democracy where elections are held regularly. The Kenyan President, Uhuru Kenyatta, is currently serving his second and final term in office. The next parliamentary and presidential elections will take place in 2022.

Since the adoption of its 2010 Constitution, Kenya has undergone an intense transition. The Constitution introduced a bicameral legislative house and devolved governance to 47 established counties with the ambition of strengthening democracy and bringing resources, development and service delivery to its citizens (Nyadera et al., 2020).

In 2013, the system of government changed from a unitary and highly centralised state to a semi-federal system where counties are represented through the County Assembly. Some of the successes achieved by the 2010 Constitution include the separation of powers - or reducing Kenya's 'winner-takes-all' politics - by creating alternative centres of power and ensuring substantial finance flows to the counties.

Despite all the achievements made by the 2010 Constitution, some challenges prevail. Most of the key functions of the state, as well as decision-making, are still maintained at the central government (Nyadera et al., 2020). Further, economic and political interests have been closely intertwined since the colonial period, and power is distributed along ethnical lines (Boulle, 2019; Kanyinga & Long, 2012). Politicians at the national level have established parallel institutions to undermine county governments in some areas while ensuring that the central state keeps almost complete control in others (Tyce, 2020). Actors involved in energy projects (e.g. the Lamu coal power plant), with strong economic interests, are either directly involved in the state or have a disproportionally strong influence over the executive (Kanyinga & Long, 2012).

Further challenges include human rights abuses by security forces and corruption, which has reportedly jeopardised the quality of government decision-making and the institutional capacity of the state (Nyadera et al., 2020). Widespread corruption in the government also hampers the successful implementation of the 2010 Constitution, as Kenya continues to lose a huge percentage of its revenue; public servants actively participate in politics, and central and local governments disagree on revenue allocation. These factors have sparked a debate for a new constitution that should address some of the gaps in the 2010 Constitution (Nyadera et al., 2020).

Kenya is one of the largest economies of Sub-Saharan Africa, with a GDP of USD 95 billion in 2019 (World Bank, 2020a). Agriculture is the most important sector for Kenya's economy; it accounted for 52% of GDP, 56% of employment, and 65% of foreign earnings exchange in 2018 (African Development Bank, 2020). With a growth rate of 5.6%, the country was one of the fastest-growing economies in Africa in 2019 (African Development Bank, 2020; World Bank, 2020b). However, poverty, inequality and weak private sector investments pose challenges to Kenya's economic development. Moreover, the country's economy is highly susceptible to internal and external shocks, such as the COVID-19 pandemic and the 2020 locust invasion, which have contributed to job losses, increased humanitarian needs and will aggravate poverty and income inequality (World Bank, 2020b). The economic disruption caused by the COVID-19 pandemic has pushed East Africa's growth projection for 2020 down to 1.2%, a rate that outstrips other African regions and is forecast to rebound to 3.7% in 2021 (AfDB, 2020).

The economic upturn in the last decade has shaped the country's emissions profile. Kenya's GHG emissions (excl. LULUCF) increased from 53.6 $MtCO_2e$ in 2010 to 63.5 $MtCO_2e$ in 2016 (Climate Action Tracker, 2019). In 2015, agriculture was responsible for approximately 60% of the country's emissions, largely driven by livestock methane emissions and land-use change, which accounted for 90% of agriculture emissions (KEPSA, 2014; Republic of Kenya, 2015). Energy was the second largest contributor at 30% in 2015 (Republic of Kenya, 2015). In its first Nationally Determined Contribution (NDC), Kenya set a target of a 30% emissions reduction by 2030 below a Business as Usual scenario (incl. LULUCF) (MENR, 2017). Kenya could meet its NDC target almost entirely by not proceeding with the construction of the two coal-fired power plants that are in the pipeline. Conversely, if the country were to proceed with these plants, achieving its target would be in jeopardy (Climate Action Tracker, 2019). The Kenyan Government plans to update its NDC in 2020, along with submitting a long-term low carbon development strategy (WRI, 2019).

Energy supply has increased substantially in the last decade. Over three-quarters of the population now have access to electricity (Republic of Kenya, 2018b). Biofuels and waste are responsible for 65% of the total energy supply, followed by oil (19%) and solar and wind (14%). The electricity supply in Kenya is dominated by renewable energy technologies, with hydropower and geothermal accounting for 36% and 29% of installed capacity in 2017, respectively (Republic of Kenya, 2018b).

According to the long-term national electricity plan (LCPDP 2017-2037) the share in the energy mix per technology for the period 2017-2037 will develop as follows: geothermal decreases from 29% to 27%, hydropower decreases from 36% to 18%, while natural gas increases from 0% to 8%. Wind and solar will increasingly play a major role in the generation mix, rising from 1% to 8% and 0% to 9%, respectively.

In addition, the share of coal in the generation mix is forecasted to increase from currently 0% to 20% in 2037 if the Kenyan government builds the two coal-fired power plants[2] (Republic of Kenya, 2018b). These plants would be the first coal-fired power plants in East Africa and would lock-in growing emissions for decades to come (Climate Action Tracker, 2019). Although the Lamu coal-fired power plant is not economically sound, and increasing protests from the population and civil society express great environmental and social concerns, the Kenyan Government remains committed to the commissioning plan (IEEFA, 2019; Republic of Kenya, 2018b). Cancelling these plans and instead expanding geothermal power generation may have positive effects on the power sector and contribute to the achievement of the sustainable development objectives (Kahlen et al., 2019).

The key sectors for Kenya's economy, such as agriculture, energy, tourism, wildlife and health, are sensitive to climate change. Extreme climate events, such as heat, drought and floods, adversely affect the national economy and cause significant loss of life. Between 1997 and 2016, Kenya experienced GDP losses of around 0.5% per year and an average of 58 deaths per year due to extreme climate events (Ministry of Environment and Forestry, 2018). Changes in precipitation patterns, caused by climate change, has also led to the worst locust attack that Kenya has witnessed in 70 years, triggering widespread devastation to crops and pastures in a region that is already extremely vulnerable to famine (National Geographic, 2020).

In part because of its vulnerability to climate change, there is strong support from both government and the general population in Kenya for adaptation measures and, to a lesser extent, for mitigating climate change. A transition to a zero-emissions society receives, however, little or no attention in the public debate.

[2] The 981MW Lamu coal-fired power plant, due to be commissioned in 2024, and a 960MW coal-fired power plant in Kitui, scheduled for 2034.

1.2 Climate Governance Snapshot

In 2016, the Kenyan Government adopted the **Climate Change Act**, which provides a framework for the promotion of climate-resilient low-carbon economic development (Republic of Kenya, 2016). The Climate Change Act also defines Kenya's climate governance structure. The Act establishes the **National Climate Change Council**, chaired by the President and responsible for overall coordination and advisory functions; the **Climate Change Fund**, a financing mechanism for priority climate change actions and interventions; and the **Climate Change Directorate** (CCD), the government's lead agency on national climate change policy, within the **Ministry of Environment and Forestry** (MoEF).

Kenya's **first NDC** set the target of a 30% emissions reduction by 2030 below a Business as Usual (BAU) scenario of 143 $MtCO_2e$ (in 2030), including LULUCF (MENR, 2017). This is equivalent to an emissions increase of 46% above 2015 levels (Climate Action Tracker, 2019).

The Kenyan Government intends to publish an enhanced and updated NDC in 2020, which will be based on the technical analysis underlying the **National Climate Change Action Plan (NCCAP) 2018-2022** (Kurdziel et al., 2019; WRI, 2019). The NCCAP sets out adaptation, mitigation and enabling actions for the period 2018-2022. It seeks to (1) align climate change actions with the government's development agenda; (2) provide the framework for near-term measures in the period 2018-2022 necessary to achieve Kenya's NDC; (3) begin mainstreaming climate change into sector functions at the national and county levels; and (4) encourage broad stakeholder participation (Ministry of Environment and Forestry, 2018).

At a sectoral level, only the Ministry of Transport began publishing annual reports on its progress towards its sectoral NDC emissions reductions target and other elements of the NCCAP (Government of Kenya, 2019). The Ministry of Energy's Least Cost Power Development Plan (LCPDP) 2017-2037 does not prioritise climate-related issues and does not consider the NDC target. The Ministry of Agriculture has developed a climate-smart agriculture implementation framework, which is considered the sector's instrument to implement the country's NDC contribution for the agriculture sector (Ministry of Agriculture, 2018)

Key Institutions

National Climate Change Council (NCCC)

The NCCC is established by the Climate Change Act and chaired by the President, with the Deputy President as vice-chair. The NCCC is tasked, among others, to approve and oversee the implementation of the NCCAP and ensure the mainstreaming of climate change function by the national and county governments.

The National Environment Management Authority (NEMA)

The NEMA is responsible, on behalf of the Council and in accordance with the Climate Change Act, for monitoring and enforcing compliance of public and private entities that are charged with climate change duties and targets.

Climate Change Directorate (CCD), in the Ministry of Environment and Forestry

The Act establishes the CCD as the Secretariat to the NCCC and the lead government agency on national climate change plans and actions. The CCD is housed within the Ministry of Environment and Forestry (MoEF).

Ministry of Energy (MoE)

The Directorate of Renewable Energy in the Ministry of Energy, serves as the MoE's climate change focal point, and is responsible for the integration and mainstreaming of climate change in renewable energy policies.

Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works (MoT)

The Climate Change Coordination Unit at the State Department for Transport developed the 2018-2019 Transport Sector Climate Change Annual Report, which includes the sector's GHG emissions profile.

Key Plans & Strategies

National Climate Change Action Plan (NCCAP), 2018 – 2022

The main objective of the NCCAP is to guide Kenya's climate actions in the period 2018 to 2022. The NCCAP outlines seven priority climate change actions and can be considered the main framework that will support the implementation of Kenya's NDC. Kenya does not have any concrete climate plans for the period between 2022 and 2030; however, under the Act, the NCCAP should be updated every five years.

National Policy on Climate Finance, 2016

The Policy creates the legal, institutional and reporting frameworks to access and manage climate finance, consistent with the institutional structures and framework set out in the Climate Change Act. The Policy's goal is to further Kenya's national development goals through the enhanced mobilisation of climate finance that contributes to low-carbon, climate-resilient development goals.

Least Cost Power Development Plan (LCPDP), 2017-2037

The 20-year national electricity plan includes analyses on demand forecasting, load forecasting, generation planning, transmission networks, and details the resource potential of various renewable energy sources. While the plan entails a brief chapter on implications of the different scenarios on emissions, the analysis does not influence the roadmap itself and there is no reference to the sectoral NDC target.

Transport Sector Climate Change Annual Report

The 2018-2019 edition of the report is the first annual transport sector GHG emissions report submitted to the MoEF in fulfilment of Article 15.5 (b) of the Climate Change Act. In line with the NCCAP 2018-2022, the reports include mitigation actions the transport sector is undertaking to reduce GHG emissions to achieve the sectoral mitigation target of 3.46 $MtCO_2e$ against the baseline in 2030. The report also outlines ongoing sectoral initiatives towards mainstreaming climate change in the transport sector.

Kenya Climate-Smart Agriculture Strategy (CSA), 2017-2026

The CSA Strategy is a tool to implement Kenya's NDC contribution to the agriculture sector. It aims to enable adaptation to climate change, build the resilience of agricultural systems for enhanced food and nutritional security and improved livelihoods, while minimising emissions. The Strategy formulates the goal of reducing sectoral emissions to 30 $MtCO_2e$ relative to the Business as Usual trajectory projection of 37 $MtCO_2e$ in 2026 (conditional to domestic and international support).

Targets

Nationally Determined Contribution (NDC)

Kenya's first NDC set the target of a 30% emissions reduction by 2030 compared to a Business as Usual (BAU) scenario of 143 $MtCO_2e$[3]. This target includes emissions from LULUCF.

An update of this NDC is under development and expected by the end of 2020.

[3] Based on Global Warming Potential (GWP) values from the IPCC's Second Assessment Report.

Key Laws & Regulations

Climate Change Act (CCA), 2016

The Act establishes the governance framework to promote climate-resilient low carbon development but does not contain quantifiable emissions reduction targets.

Energy Act, 2019

The Act consolidates laws relating to the promotion of renewable energy (anchoring the Renewable Energy Feed-in-Tariff-System), matters related to geothermal energy, and the regulation of petroleum and coal activities, among others. The Act contains neither a target for sectoral emissions reductions, nor a reference to climate mitigation.

2 National assessment

2.1 Political commitment

Political commitment	
High-level government leadership	**Quality of government decision making**

Kenya's President and line ministries support climate mitigation action, but more effort and higher ambition are needed to drive the transition to a zero emissions economy and society. Leadership from the head of state and leading institutions can take a more proactive stance on scaling up climate action domestically.

Greater autonomy and power for the Climate Change Directorate would further advance the development and implementation of climate mitigation policies aimed at transitioning Kenya to a zero emissions economy and society. While there has been no rollback of climate policies in recent years, new and progressive policies have not been developed. Corruption is a major issue in Kenya and threatens the efficacy of climate policies. In particular, some political actors seem eager to profit from fossil fuel infrastructure projects in the country.

High-level government leadership can be a driving force for stimulating economy-wide transformational changes and increasing climate mitigation ambition through top-down strategy setting and sending effective policy signals. The Kenyan Government has shown moderate levels of commitments to enhancing climate ambition and driving the transition to a zero emissions society.

President Uhuru Kenyatta and other government officials regularly mention the importance of climate change mitigation and adaptation. Speaking on the sidelines of the 74th session of the United Nations General Assembly (UNGA), the President noted that Kenya's commitment to tackling climate change is deep and that the country had taken deliberate steps towards meeting its international climate obligations (AllAfrica, 2019).

Despite these announcements, climate change action is not a priority in the country's Vision 2030, nor in the President's Big Four Agenda.[4] Climate change or transition-related aspects are also not explicitly covered in the country's 'Economic Stimulus Program', which supports vulnerable citizens and businesses, particularly those affected by COVID-19 (MyGov, 2020). The targeted expenditures mainly support employment creation and youth empowerment, which are drivers of the Big Four Agenda.

Further, a significant number of Ministers' actions do not support a zero emissions economy. For example, the government supports the expansion of fossil fuel installations, such as the Lamu coal power plant, which directly contradicts its plan to achieve 100% green energy sufficiency by 2020 (Capital FM Kenya, 2018; Republic of Kenya, 2018b).

The 2016 Climate Change Act established the Climate Change Directorate (CCD) within the Ministry of Environment and Forestry (MoEF). The CCD is charged with providing ministries with analytical support, identifying low-carbon development strategies, and coordinating the development and implementation of climate mitigation and adaptation measures. Although the CCD is acting on its mandate to coordinate processes linked to climate change action (e.g. development of the NCCAP), other tasks have not been adequately implemented such as driving processes to mainstream climate action into sectoral plans.

The **quality of government decision making** at the highest levels is a key factor in implementing ambitious climate policies as national governments provide resources and direction for lower levels

[4] The four pillars of the Big Four Agenda are manufacturing, affordable housing, universal health coverage and food security.

of government and can stimulate climate action through mainstreaming, lesson-drawing, and cooperation (Jänicke et al., 2015). The analysis of the quality of government decision making in Kenya shows some moderate results with regards to the continuity of policy development and broad-scale political support for climate mitigation, and indicates that the government's accountability and trustworthiness of implementing climate-related actions could be improved significantly.

There is broad political support for low carbon climate-resilient development, though the depth of that support varies. Kenya has a multi-party system with around 70 registered parties. Many of these, however, coalesce to form two dominant coalition parties (i.e. National Super Alliance (NASA) and Jubilee). While the dominant coalition partner, the Jubilee Party, does not hinder or oppose the transition, it does not consider it a priority issue. Climate change is, however, a first priority issue for the Jubilee Party's junior partner, the Kenya African National Union (KANU) (Siele, 2020). Nonetheless, this has not substantially impacted the overall orientation of the governing coalition. Droughts and resulting food shortages took centre stage in Kenya's 2017 election, but it is difficult to predict at this stage which key issues will dominate the 2022 elections (The Guardian, 2017). The latter depends on factors including the course of the COVID-19 pandemic, and on who will succeed Kenyatta as the head of the Jubilee Party.

There is some degree of continuity in Kenya climate policy developments, with no significant rollback of measures in recent years. The 2016 Climate Change Act implements climate policies from the 2010 National Climate Change Response Strategy and the NCCAP 2018-2022 reflects the same approach and strategies as the previous NCCAP (2013-2017). However, no new and progressive climate strategies have been developed in recent years.

The National Climate Fund, a financing mechanism for priority climate change actions that was established by the 2016 Act and open to public comments in 2018, is not yet operational (Dzebo et al., 2020; The National Treasury, 2018). However, the Kenyan Government, with support from UNDP, has developed a NDC financing strategy, which is guided by the National Policy on Climate Finance, to prepare cost details for priority mitigation actions outlined in the NCCAP 2018-2022 (UNDP, 2020b).

There are concerns about the trustworthiness of the Kenyan Government on delivering climate policy and transition-related processes. Evidence indicates that economic and political interests are closely intertwined in Kenya and that there is limited transparency and accountability with regards to decision-making (Boulle, 2019). Studies suggest, for instance, that politically connected investors lobbied for the construction of the Lamu coal power plant, which is not economically sound as it is likely to lead to excess generating capacity in Kenya and to increased electricity rates for consumers (Klopp & Halakhe, 2019). Moreover, Human Rights Watch found that at least 35 environmental activists protesting against the Lamu coal power plant or the associated Lamu-Port-South Sudan-Ethiopia Transport (LAPSSET) project have been harassed or intimidated by the police, military or other government officials between 2013 and 2018 (Human Rights Watch, 2018).

Further, the Geothermal Development Company (GDC) has been involved in several cases of corruption in recent years. These involved irregularities in the tendering processes and preferential treatment of individual employees (Capital FM Kenya, 2015; Nation Africa, 2019).

Corruption and governance issues, such as evictions related to land rights, are also considered a primary factor for the high rate of forest degradation (Transparency International, 2020). A Task Force for Anti-Corruption in REDD+ had been established to advance a multi-stakeholder dialogue on the interface between REDD+ and anti-corruption efforts. While an assessment by Transparency International Kenya found that the Task Force was relevant and effective, there have been major challenges such as a lack of funds, high staff turnover and lack of operational structure. Consequently, the Task Force has been dormant for almost two years, thus falling short of its objectives (Transparency International Kenya, 2017).

Kenya ranks 137th of 198 countries in the 2019 Corruption Perceptions Index (CPI). The Index ranks countries by their perceived levels of public sector corruption (Transparency International, 2020).

2.2 Institutional Framework

The institutional framework of Kenya is clearly defined and enshrined in law, but the coordination between ministries and between national and county levels is not yet effective. As a result, not all sectoral plans sufficiently include strategies to fulfil national climate change mitigation targets. While the national climate change lead agency has qualified staff, its budget is insufficient to perform some statutory tasks, such as the analytical support to sector ministries.

Effective coordination across ministries and agencies and with sub-national governments affects the ability of actors to align overarching climate policy targets efficiently and consistently. While coordination structures both across sector line ministries (horizontal) and between national and sub-national governments (vertical) are in place in Kenya, these are often not fully operational. As a result, climate change is not consistently mainstreamed into sector or county plans.

The 2016 Climate Change Act provides structures for horizontal coordination of climate action by establishing the National Climate Change Council (NCCC). The President of Kenya chairs the NCCC, which also comprises four Cabinet Secretaries from line ministries, such as energy and economic planning, as well as the chairperson of the Council of Governors and representatives from the private sector, civil society, marginalised communities and academia (Republic of Kenya, 2016). The NCCC is responsible for climate change affairs and oversees the coordination on the NCCAP's implementation[5]. However, the NCCC does not seem to be fulfilling its functions, e.g. to drive processes to mainstream climate action into sectoral plans. In some cases, it is a bottleneck for processes such as the release of the NCCAP (Ageyo & Muchunku, 2020).

Sectoral NDC targets were defined following a bottom-up approach, in which the mitigation potential of the sectors resulting from the planned measures was added. Accordingly, there is likely little coherence between sector plans and the national mitigation target (Ministry of Environment and Forestry, 2018).

There is also limited evidence that ministries mainstream policies aimed at the transition. Several key ministries have appointed climate change officers or established climate change funds, as required under the Climate Change Act. However, the effectiveness of these entities is questionable as climate change is not consistently considered in sectoral strategy plans. For example, the Ministry of Energy's 2017-2037 Least Cost Power Development Plan, updated on a biennial basis and covering capacity planning, demand projections and transmission investment requirements over a 20-year period, includes a brief chapter on the plan's GHG emissions implications, but this mitigation potential analysis has not had any influence on the plan itself (Republic of Kenya, 2018b).

Nonetheless, there are a few positive examples of integrating climate change into key sectoral plans. Kenya's Climate Smart Agriculture Strategy (2017-2026), published by the Ministry of Agriculture, aims to minimise emissions. The Strategy is considered the sector's instrument to implement the country's NDC contribution for the agriculture sector (Ministry of Agriculture, 2018). While there is no comprehensive sectoral plan for the transport sector, the Ministry of Transport began publishing annual reports on its progress towards its sectoral NDC emissions reductions target and other elements of the NCCAP summarising short-term actions up to 2022 (Government of Kenya, 2019). Although these plans refer to short-term mitigation actions, there is no mentioning of long-term goals, nor a transition to a zero emissions economy.

Vertical coordination between the national and county governments can also be improved. The Climate Change Act aims at establishing functions, with relevant empowering clauses at all levels of

[5] The Climate Change Directorate is responsible for the actual implementation, with support from the NCCAP Taskforce (Republic of Kenya, 2016). This taskforce is chaired by the Cabinet Secretary and consists of experts from the national and county governments, civil society and the private sector (Ministry of Environment and Forestry, 2018).

government, and enhancing cooperative governance between national and county governments (Republic of Kenya, 2016).

The NCCAP Taskforce regularly coordinates on climate change-related issues between national and county governments. In addition, county governments are tasked with mainstreaming actions outlined in the NCCAP into their County Integrated Development Plans (CIDPs) (Ministry of Environment and Forestry, 2018).

However, there are challenges with the operationalisation and effectiveness of these vertical structures, including inadequate communication between county and national governments as well as confusion on functions and mandates of different levels of government (Bellali et al., 2018). According to the NCCAP 2018-2022, only five out of 47 county governments (Garissa, Isiolo, Kitui, Makueni, and Wajir) have made meaningful strides towards mainstreaming climate change into county processes by formulating some regulations and pieces of legislation or establishing county climate change funds (Nyadera et al., 2020). The County Government of Busia included a budget line in its annual development plan to create a climate change unit and outlined plans for environmental and climate change awareness, and education campaigns (County Government of Busia, 2020a, 2020b).

Another important criterion is the existence and utilisation of a **knowledge infrastructure capable of supporting strategic planning and policy development**, as this aids in the elaboration and application of decarbonisation analyses in climate policy development. Resource constraints are also significant barriers to effective climate governance and have impeded developing countries in the past (Bhave et al., 2016). **Adequate resources and capacity** need to be made available to implementers and efficiently used in climate policy processes.

The Kenyan Government has had limited resources for climate processes in the past and therefore has been unable to provide some key mandatory functions. According to the Climate Change Act, the CCD should provide analytical support on climate change to the various sector ministries, agencies and county governments; and serve as the national knowledge and information management centre for collating, verifying, refining, and disseminating knowledge and information on climate change (Republic of Kenya, 2016). However, there is limited evidence that the CCD is fulfilling this mandate: it has not published any reports since the NCCAP in 2018 and most sectoral development plans do not consider climate change.

A more positive development is that there have been no significant institutional changes related to climate governance in Kenya in recent years - neither concerning the climate change lead agency nor to the focal points in line ministries. Evidence suggests that the CCD team is well-qualified and that there is a high degree of staff retention. The Director of the CCD has been leading for over four years and holds a PhD in environmental science, thus fulfilling all qualification criteria outlined in the Climate Change Act (Ministry of Environment and Forestry, 2020c).

Although the CCD does not have sufficient budget for analytical tasks, it has at least managed to fulfil its role of coordinating climate change action – for example, developing the last NCCAP. Other tasks such as the provision of analytical support to various sector ministries are not implemented extensively or are only undertaken with external funds. For instance, a GIZ-led project for the transport sector provides guidance on monitoring, reporting and verification (MRV) activities to the Transport Ministry. Also, the CCD receives financial assistance from international donors (e.g. through donations of IT equipment) to support the country's climate change monitoring and reporting capacities (Ministry of Environment and Forestry, 2020a).

2.3 Process for policy development, implementation and review

Evidence suggests that efforts are underway to establish processes for climate policy development, implementation and review. However, Kenya does not yet have long-term emissions reductions strategies and targets. While the contours of a comprehensive transparency framework are in place, these are not yet widely applied across sectors so the review functionalities are still limited. Whether domestic climate action becomes progressively more ambitious can only be assessed once Kenya has published its revised NDC, which is currently under development.

A **defined Paris-compatible decarbonisation pathway** is an important component to aid short, medium and long-term planning for, and alignment with, the Paris Agreement's overall objectives. Kenya, however, has no publicly-available long-term decarbonisation goal.

The NCCAP and NDC set emissions reductions targets for 2022 and 2030 respectively, but do not cover later years. These targets are a reduction from a BAU scenario and allow for an increase in emissions compared to current emission levels. The CCD, with support from the GIZ, intends to engage a consultant to provide support to the Government to develop a long-term GHG strategy for Kenya.[6]

While the 2016 Climate Change Act provides for the institutional framework to address climate change and indicates that the NCCC shall set the targets for the regulation of greenhouse gas emissions, it does not include a quantitative emissions reductions target (Republic of Kenya, 2016). Making provisions for empowering clauses for such targets would give line ministries a stronger incentive to set sector-specific emissions reductions targets. Currently, most line ministries do not align the existing national medium-term plans (e.g. NDC) with near-term policy development and implementation. There are, however, positive examples, such as the Transport Ministry, that considers NDC mitigation targets for short-term policy development, bases sectoral actions on the NCCAP and aims to reduce emissions compared to a BAU scenario (Government of Kenya, 2019).

An **enhanced transparency framework mechanism** is necessary to track progress towards achieving emissions reduction targets in line with the Paris Agreement, as well as providing checks and balances for the government's climate commitments. In Kenya, the structure of a comprehensive transparency framework is in place, but it is not yet widely applied across sectors so the review functionalities are still limited.

The last NCCAP (2018-2022) calls for the establishment of an MRV system for mitigation, including the development of the greenhouse gas inventory and tracking of NDC implementation (Ministry of Environment and Forestry, 2018). In addition, the Climate Change Act mandates CCD to establish and manage a national registry for appropriate mitigation actions by public and private entities and tasks government entities to report on sectoral greenhouse gas emissions for the national inventory (Republic of Kenya, 2016). The National Environmental Management Authority (NEMA) should, on behalf of the NCCC, regulate, enforce and monitor compliance on levels of greenhouse gas emissions (Republic of Kenya, 2016).

Several sectors have published sectoral greenhouse gas inventories, such as the land sector, through the System for Land-based Emissions Estimations (SLEEK) or the agriculture sector in its inventory report of GHG emissions from dairy cattle (ECOS, 2017; Republic of Kenya, 2020b). Kenya has also developed an Integrated MRV Tool with international support (UNDP, 2020a). However, the transport sector, with support from GIZ's 'Advancing Transport Climate Strategies' project, was the first and so far only sector to meet the requirements of the Climate Change Act for regular MRV of climate

[6] The project was tendered in September 2020 under the name "Development of Kenya's 2050 Long-Term Greenhouse Gas Strategy and Carbon Resilience Development Pathway under the Paris Agreement".

actions through annual documentation on performance and progress (Government of Kenya, 2019). Using the transport sector as an example, CCD has developed a template for MRV that will be used by other sectors (Ministry of Environment and Forestry, 2020b).

The NCCAP, the main mechanism to ensure that Kenya achieves its NDC mitigation target, prescribes measures and mechanisms to review levels and trends of greenhouse gas emissions (Ministry of Environment and Forestry, 2018). While the last NCCAP identifies mitigation actions and their emissions reductions potential to get Kenya on the right path towards the realisation of its 2030 mitigation target (see Mitigation Technical Analysis 2018-2022 - Annex to the NCCAP), the plan does not entail an updated baseline which would allow for determining the gap between current/suggested policies and the NDC target.

The Climate Change Act provides a review mechanism and mandates that the Cabinet Secretary review and update the NCCAP every five years and submit it to the NCCC for approval. The CCD is also mandated to undertake a biennial review of the implementation of the NCCAP and report to the NCCC. While NCCAP 2013-2017 was followed by the NCCAP 2018-2022, it is unclear whether the CCD undertook biennial reviews of the previous NCCAP.

Although Kenya does not yet have a formalised **ratchet up mechanism** that provides a long-term framework for reviewing and updating its NDC in accordance with the Paris Agreement's five-year cycle, the government intends to publish a revised NDC in 2020. Kenya will thus likely comply with the requirement of resubmitting a revised NDC every five years. However, it remains to be seen whether the updated NDC will set more ambitious climate targets.

2.4 Stakeholder engagement

While policy documents acknowledge the importance of public awareness, and government regularly involves stakeholders in planning processes, there is scope to improve public participation and access to information. In particular, actors who would profit from the transition to a zero emissions society and those who live in marginalised areas have limited influence on decision-making processes.

The Government's **level and scope of engagement** with stakeholders reflect how well it is aware of broad stakeholder issues and the expectations of its constituents, which, in turn, affects the ability for sound government decision-making. While the generation and dissemination of public knowledge on climate change, as well as public consultation of policies, are required by law in Kenya, and the corresponding structures have been established, there is considerable room for improvement in terms of implementation.

The Climate Change Act tasks national and county governments to facilitate capacity development for public participation in climate change responses through awareness creation, consultation, representation and access to information. This is listed as one of the Act's main purposes (Republic of Kenya, 2016). In addition, the NCCAP as well as the Adaptation Plan 2015-2030 mention civil society as an important agent of change through public awareness creation. Both strategy documents call for awareness campaigns focused on climate adaptation and resilience. The Kenya Climate Change Knowledge Portal (KCCKP), CCD's "one-stop repository of climate change information" has, however, not published any reports or blogs on its website since May 2019. There is also analysis indicating the current dissemination practices of the Kenyan Government are not effectively reaching grassroots communities because of socio-economic and language barriers (Ageyo & Muchunku, 2020).

The Climate Change Act requires the Kenya Institute of Curriculum Development (KICD) to integrate climate change into various disciplines and subjects of the *national education curricula* at all levels. The Act also requires the Council to advise the public agencies responsible for regulating universities and tertiary institutions on the integration of climate change into their curricula (Republic of Kenya,

2016). As a step towards the achievement of this, guidelines for mainstreaming climate change in curricula at all levels of education and training have been developed by MoEF but there is limited evidence of them being implemented (Republic of Kenya, 2020a). Although climate change has been implemented in the formal education curriculum to some extent, courses are not yet compulsory (Mbiru, 2020).

In line with the Climate Change Act that requires every governmental entity to ensure *participation and consultation with stakeholders*, the Kenyan Government generally conducts public consultations when developing strategies, laws and policies relating to climate change. For instance, during the development of the NCCAP 2018-2022, the MoEF consulted over 1,000 stakeholders, including representatives from the national and county governments, civil society, academia, women's groups, youth groups, marginalised and minority groups, and the private sector (Mbiru, 2020).

However, there is considerable scope to improve public participation and public access to information to ensure that input from the wider public translates to policy changes (Birgen & Okoth, 2020). The Kenyan Parliament is currently in the process of considering three bills[7] that would provide a framework for public participation (not specific to climate change) (Republic of Kenya, 2018a, 2019a, 2019b). It is important to ensure that there is no conflict in the three bills as this would lead to confusion among the public and potentially hinder non-state actor participation in decision-making processes. In addition, the Budget Office of the National Assembly is currently reviewing another bill that would improve access to information for communities in marginalised areas (Birgen & Okoth, 2020).

The **management of non-state actor interests** is another important consideration, as it depicts whether governments have succeeded in addressing resistance created by vested interests as well as communicating the fairness of their policies to the public. An assessment of the ability to manage non-state actor interests reveals how much public support or opposition policies receive. The Kenyan Government has shown inconsistent approaches to the management of non-state actor interests concerning a Just Transition.

One of the guiding principles of the NCCAP is equity and social inclusion, which should be achieved by "addressing the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, and members of minority or marginalised communities through an inclusive approach to climate change action". There is, however, no use of a Just Transition concept or its accompanying lexicon such as "social inclusion" or "social protection" within government policies for economic growth and climate change (Morena et al., 2018).

At the same time, some sectors have established processes that could support a Just Transition. Project developers in the energy sector, for instance, must conduct an environmental and social impact assessment (ESIA), which must consequently be approved by the National Environment Management Authority. ESIAs can be an important tool in ensuring a Just Transition, as they allow identifying who may be negatively affected by a project, as well as identify solutions and adequate compensation measures (Muigua, 2012). However, recent developments have shown that the NEMA licenced projects violate basic ESIA requirements, for instance concerning the Lamu coal-fired power plant. As a consequence, a court recently cancelled the environmental licence for the Lamu coal power project (IEEFA, 2019).

Non-state actor interests and influence also have the ability to shape government policies, either to accelerate or impede the speed of the transition to a zero emissions society. Such influence may come from groups directly affected by the transition, either positively or negatively, or from the general public. An important consideration is to what extent these stakeholders can access and utilise country-specific analyses to influence the policy agenda.

An important element that has the potential to shape non-state actor interests and influence is the extent to which the public supports transition-related measures. In Kenya, more than 90% of the population considers climate change "very" or "extremely" serious and 71% consider it the biggest threat to their country (Newman et al., 2020; Poushter & Huang, 2019). Although there is less

[7] Only one of the bills has passed the Senate for further review by the National Assembly Budget & Appropriations Committee, the other two are still in the first reading stage (April 2020).

evidence on public support for mitigation action, let alone the transition to a zero emissions society, these numbers suggest that a majority of Kenyans would support such action.

Only a few studies on decarbonising Kenya's economy are available, which may challenge stakeholders in planning and driving mitigation activities and the transition to a zero emissions society.

Although the Kenyan Government makes efforts to ensure transparent and effective private sector engagement, for example by developing a "framework for private sector engagement and coordination to implement the NCCAP", the influence of various stakeholders groups on government decisions varies significantly (UNDP, 2019). Indications suggest that non-state actors whose interests are at risk from the transition have a relatively strong influence over decision-making processes. This is demonstrated by the Lamu coal-fired power plant project. Although the project plan is not economically sound[8], and local communities increasingly protest against the plant and civil society expressing great concerns, the Government remains committed to the commissioning plan and has requested the planning authorities to continue with Lamu as a mandatory generation source in the future energy mix. These developments suggest that the proponents of the Lamu power plant – in particular the firms charged with its construction – exerts a substantial influence on decision-makers.

At the same time, it seems that actors who would support the transition and/or profit from it are often not heard and, in some cases, even face intimidation and harassment. For instance, the interests of businesses active in the renewable energy sectors are not always taken into account in governmental decision-making. On the contrary, sometimes measures are taken to counter their interests. For example, the government's Finance Bill 2020 foresees the introduction of taxes on clean cooking and solar energy products, a move that would significantly water down the gains towards access to modern energy for all. Manufacturers estimate that this measure would reduce the growth from 30% annually to 10% causing corresponding job losses in the sector (The Standard, 2020). When asked about the most common barriers for hybrid (wind and solar) mini-grids, sector representatives have indicated that governance and regulations are considerable bottlenecks due to a lack of framework and additional regulatory requirements for implementing wind power (Magni et al., 2020).

Further, there is evidence that activists who opposed the construction of the Lamu coal power plant, faced regular intimidation and harassment from government officials, who may have attempted to silence the activists (Human Rights Watch, 2018).

While there have been some cases where actors who support the transition have influenced climate policy developments, this generally occurred through legal proceedings and public protests, rather than dedicated public administration and participation processes. For example, opponents of the Lamu power plant succeeded in delaying the commissioning of the installation through legal procedures. In 2016, a Kenyan court suspended construction of the coal plant following a petition by activists against the national power company and the project proponent (Human Rights Watch, 2018). In 2019, the National Environment Tribunal revoked the licence issued to Amu Power Company to construct the power plant.

In addition, there is evidence suggesting that international aid agencies and donors have considerable ability to influence the electricity market regime in Kenya, mainly because of its large amount of funding provided for project development. The latter has impacted market reforms, for instance with donors pushing for privatisation, or technology preferences, with an emphasis of funding support on large-scale generation and grid extension (Babcock et al., 2018).

[8] A study by the IEEFA found that the power plant would lead to excess generating capacity in Kenya and sharply increase electricity rates for consumers (IEEFA, 2019).

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NewClimate Institute is a non-profit institute established in 2014. NewClimate Institute supports research and implementation of action against climate change around the globe, covering the topics international climate negotiations, tracking climate action, climate and development, climate finance and carbon market mechanisms. NewClimate Institute aims at connecting up-to-date research with the real world decision making processes.

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