

Better but still unequal: The State of Human Rights in Kenya

An Opinion Poll on the 70th Anniversary of the Universal Declaration of Human Rights

70

YEARS

UNIVERSAL DECLARATION OF HUMAN RIGHTS

#STANDUP4HUMANRIGHTS



@ Amnesty International Kenya

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For more information on the UDHR@70 activities in Kenya and the world

www.standup4humanrights.org

#StandUp4HumanRights

For more on our organisation's work to promote and protect human rights;

Kenya National Commission on Human Rights www.knchr.org/

International Commission of Jurists – Kenya www.icj-kenya.org

National Coalition of Human Rights Defenders www.hrdcoalition.org/

Amnesty International Kenya www.amnestykenya.org

Acknowledgements:

Amnesty International, Kenya National Commission of Human Rights, International Commission of Jurists, National Coalition of Human Rights Defenders and the Social Justice Centres Working Group appreciate the Twaweza East Africa team for conducting this opinion poll and all the Kenyan men and women who shared their views. It is our wish that the findings will galvanize us all to take action and to **#StandUp4HumanRights**.

Introduction

Seventy years ago, world leaders gathered in Paris to declare never again to the violent atrocities seen in World War Two. Facing their own “gulags”, subjects of the British Empire met to make a similar declaration in Nairobi.

Under the leadership of the Kenya African Union, they called for an end to the white settler colonialism. They also demanded their right to vote, to political participation and to be free from discrimination and persecution. As the world celebrates the 70th Anniversary of the adoption of the United Nations Universal Declaration of Human Rights, this moment offers a critical opportunity to reflect on the state of human rights, re-energize efforts and stand up for human rights in Kenya.

To mark this moment, Amnesty International Kenya, Kenya National Commission on Human Rights, the International Commission of Jurists-Kenya Section, National Coalition of Human Rights Defenders and the Social Justice Centers Working Group asked 1,619 men and women in Kenya what they thought about the state of human rights in 2018.

www.twaweza.org/sauti.

Methodology

The National Human Rights Institution and four Human Rights Organisations have conducted and released this nationwide and independent public opinion poll using Twaweza East Africa’s Sauti za Wananchi survey platform. The survey used both closed and open-ended questions. Interviews were conducted in a total of 18 languages. These include English, Swahili, Kipsigis, Kisii, Borana, Embu, Kamba, Kikuyu, Luo, Maasai, Maragoli, Meru, Nandi, Pokot, Samburu, Somali, Tugen, and Turkana. Half of the respondents (51%) were interviewed in Swahili.

The poll targeted individuals living in urban and rural areas across the 47 counties who identify as Kenyan nationals. All respondents are 18 years of age and above.

The organisation asked 1,619 men and women the following questions. Which human rights are they aware of? Are all equal before the law? Who violates human rights most? Which laws and policies deal with human rights violations? Which institutions and actors do they trust most? How prevalent is discrimination and the violation of health, education, and housing rights?

The data contained in this brief comes from Twaweza’s flagship Sauti za Wananchi, a nationally representative, high-frequency mobile phone panel survey. Information on the overall methodology is available at www.twaweza.org/sauti.

For this brief, data were collected from 1,619 respondents from Kenya’s Sauti za Wananchi panel in the twenty-fourth round of calls to the panel, conducted between October 26 and November 18, 2018. The poll has +/-2.4% margin of error at 95% confidence level. Data can be disaggregated further using gender, region and income levels.

Summary

The 2018 Human Rights Survey has thirteen key insights into the state of human rights in Kenya. Human rights have improved in Kenya since 1948 (65%) and 2010 (69%) but half of Kenyans do not believe that the law is applied equally. The majority feel high levels of wealth inequality (67%) and corruption (51%) undermine a core constitutional promise contained in the Kenyan Bill of Rights. This promise states that every person shall enjoy the rights and fundamental freedoms in the Bill of Rights equally. Further, that Kenya is an open and democratic society founded on the principles of human dignity, equality, equity and freedom (Article 19 and 20).

A topical finding given the debate on the Constitution and referendum, 50% (about 23 million Kenyans or 10 million Kenyan adults) believe that their rights are adequately protected by the Constitution. The majority of Kenyans believe that the biggest risk to their lives is denial of health services, unlawful police killings and harassment, hunger and restrictions to freedom of expression.

The National Police Service (33%) and National Government (28%) are perceived to be responsible for the most rights violations followed by the public (12%) County Governments (5%) and military (5%). 1 out of 10 Kenyans say they have experienced a rights violation at some

point in their lives. 1 in 3 Kenyans has seen or heard about unlawful killings by the police in the last six months.

Despite awareness of a broad range of human rights, Kenyans trust the media, human rights activists, religious leaders, the judiciary, business companies and the police in this order. Only 33% of the population trust the police, a key law and human rights enforcement agency. This low level of trust is related to the earlier perception that the police are the main violators of civil and political rights. This is deeply worrying given half of people have said it is to the police that they turn to for help.

Further, half of all Kenyans say that they do not know which laws and policies deal with human rights violations. A surprising finding given Kshs 400 billion allocated to the Big Four Agenda of Jubilee (manufacturing, universal healthcare, affordable housing, and food security) is that only four out of ten Kenyans have ever heard of the Big Four.

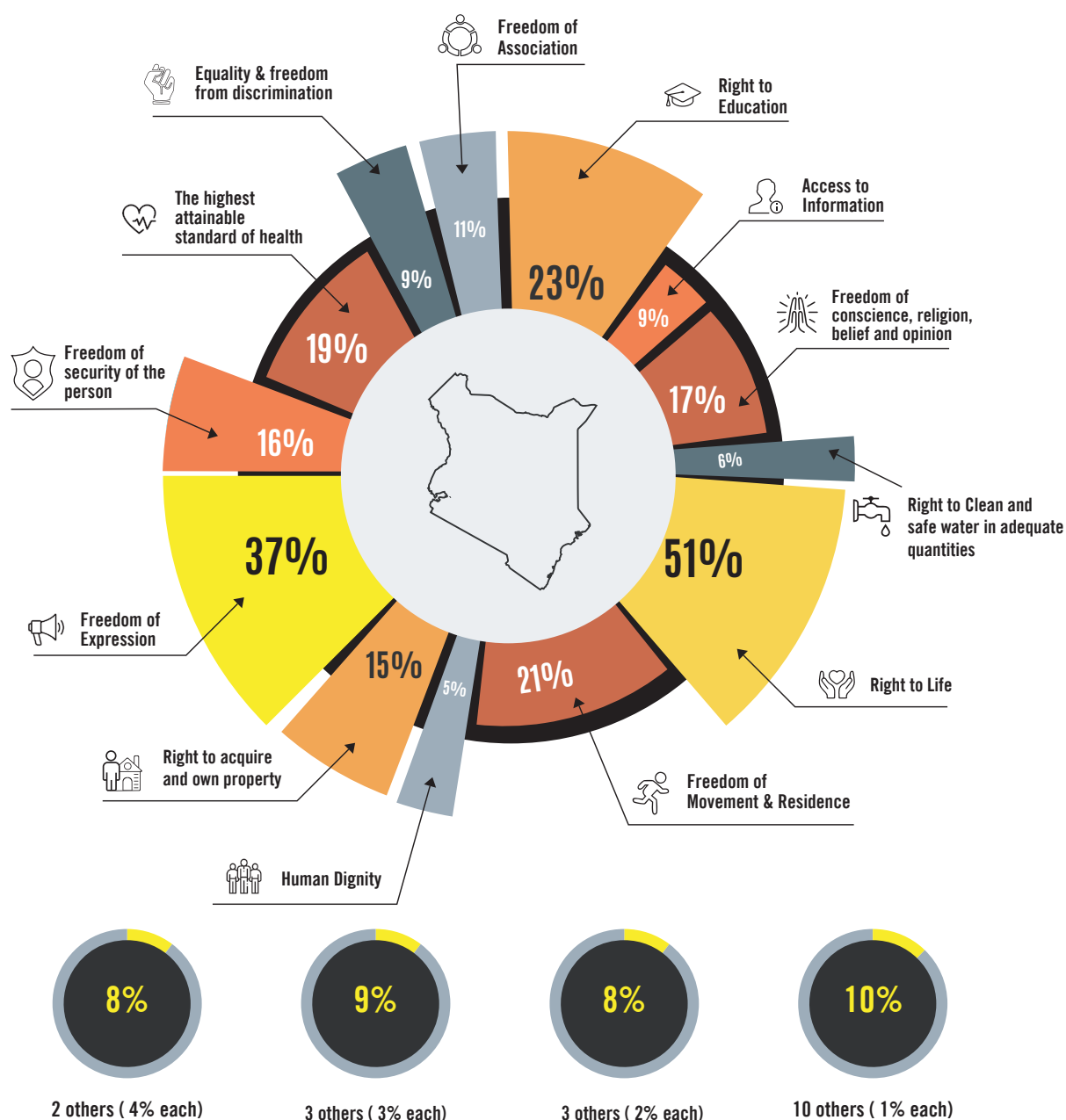
An encouraging finding is that 50% of Kenyans have stood up for their own rights and 30% Kenyans have stood up for the rights of others.

Thirteen insights about human rights in Kenya

Kenyans are aware of a broad range of human rights

Kenyans are aware of a broad range of human rights. Top mentions include the right to life (51%), freedom of expression (37%), the right to education (23%), freedom of movement and residence (21%) and the highest attainable standard of health (19%) and freedom of conscience, religion, belief and opinion (17%).

Which human rights are you aware of? (multiple response permitted)



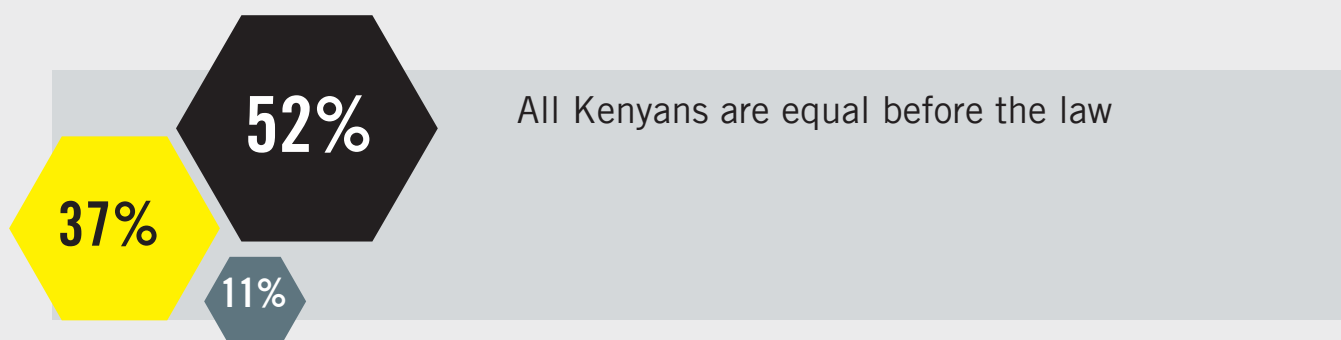
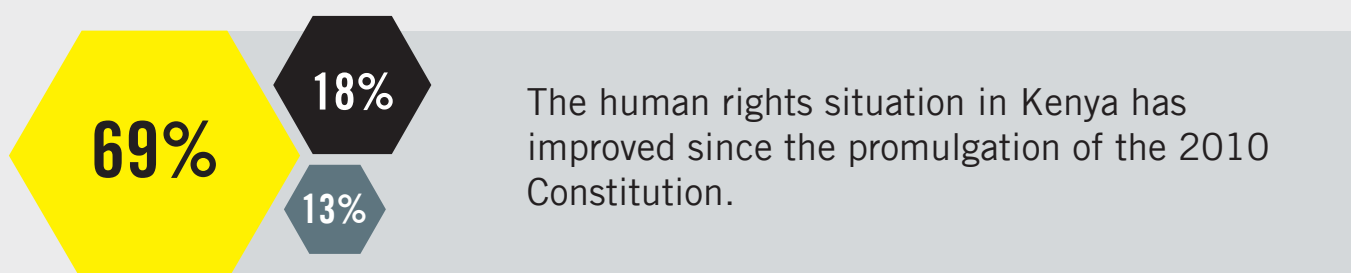
Sauti za Wananchi Mobile Phone Survey, Round 24
(October 26 to November 18, 2018; n=1,619)

Half of Kenyans say that not all Kenyans are equal before the law

Five out of ten Kenyans (52%) say that not all Kenyans are equal before the law. Less than half, (37%) agree that all Kenyans are equal before the law.

A majority of Kenyans are positive about improvements in the state of human rights. Seven out of ten (69%) agree that the human rights situation has improved since the promulgation of the Constitution of Kenya 2010 and a similar number that there has been improvement since 1948.

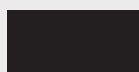
Do you agree or disagree with the following statements?



KEY



Agree



Neither satisfied
nor dissatisfied



Disagree



Dont know

Sauti za Wananchi Mobile Phone Survey, Round 24
(October 26 to November 18, 2018; n=1,619)

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Majority of Kenyans attribute lack of equality before the law to wealth inequality and corruption

Among those who hold the view that not all Kenyans are equal before the law, the main reasons stated include wealth inequality (67%) and corruption (51%).

Discriminatory legislation (14%), political division (12%) and ethnic division (8%) are also identified as reasons.

Why do you say that not all Kenyans are equal before the law? (multiple response permitted)

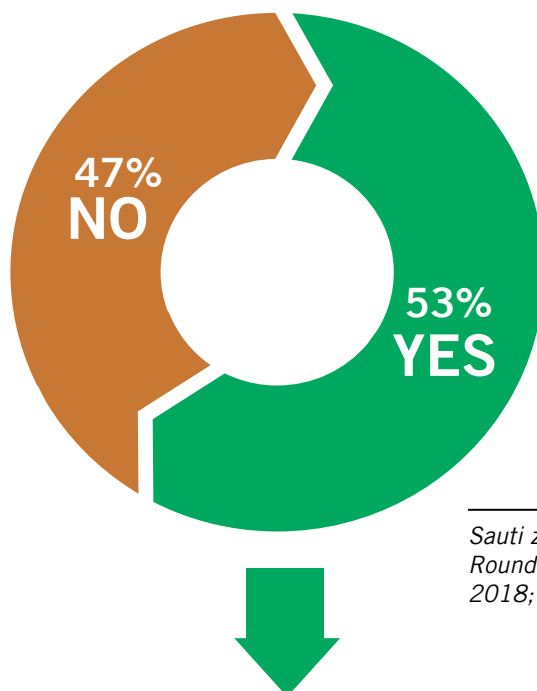


*Sauti za Wananchi Mobile Phone Survey, Round 24
(October 26 to November 18, 2018; n=847; those who say that not all Kenyans are equal)*

Half of Kenyans believe that their rights are adequately protected by the Constitution

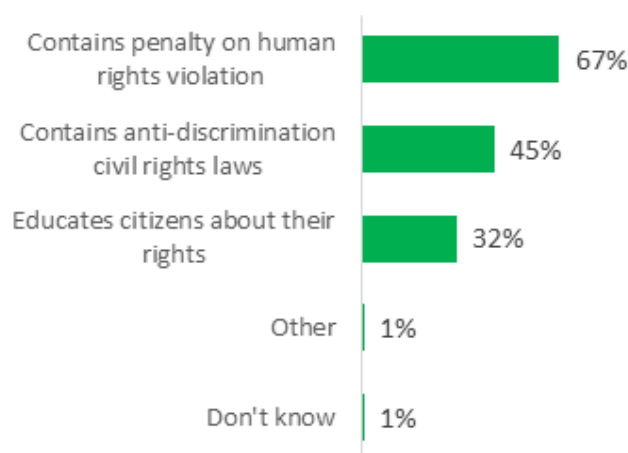
Half of Kenyans (53%) believe that the Constitution adequately protect their rights. Those who believe that the Constitution sufficiently protects their rights point out the fact that it contains penalty on human rights violation (67%), has anti-discrimination civil rights laws (45%) and educates men and women about their rights (32%).

Do you think that the Constitution adequately protects your rights?



Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

Why do you say that the Constitution adequately protects your rights?



Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=855; those saying that the Constitution adequately protects their rights)

People view denial of health services, unlawful killings by the police and harassment, hunger and restrictions to freedom of expression as some of the major risks to their personal lives

Kenyans view denial of healthcare services (21%), unlawful police killings (12%), hunger and inadequate low quality food (10%), and restrictions on freedom of expression (10%) as the major risks to their personal lives. Other human rights violations that are seen as a risk include discrimination (9%), police harassment (8%), denial of educational rights (6%) and infringement of privacy (6%) among others.

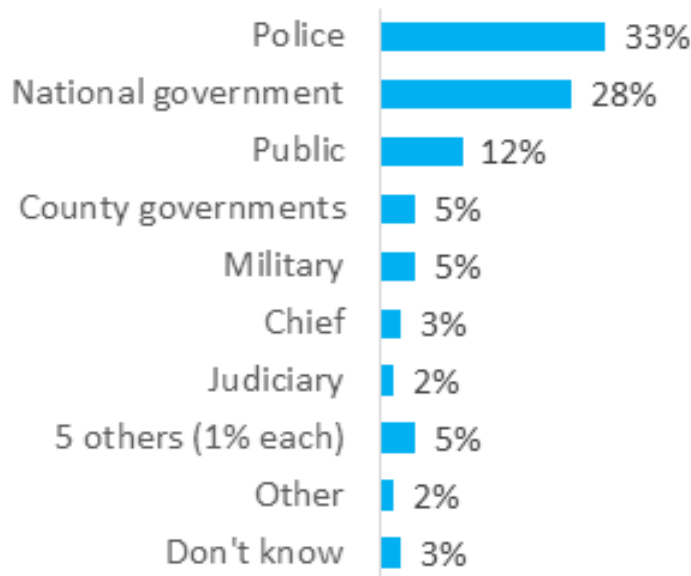
Which human rights violations pose the most risk to you personally? (multiple responses permitted)



The police and National Government are perceived to be the greatest human rights violators

The police (33%) and the National Government (28%) are perceived to be the greatest human rights violators. These two are followed by members of the public (12%), county governments (5%), the chief (3%) and the Judiciary (2%) amongst others.

In your opinion, who violates human rights the most? (multiple responses permitted)



Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

Other findings in the Opinion Poll on socio-economic and cultural rights may explain why respondents list the National Government as being responsible for most human rights violations.

In terms of education, 1 out of 3 Kenyans says a member of their family dropped out of school in the last three years. The main reason provided for this included inability to pay (52%). Other reasons provided for children dropping out of school include early marriage/teen pregnancies (23%), discipline issues (22%), and peer pressure (15%).

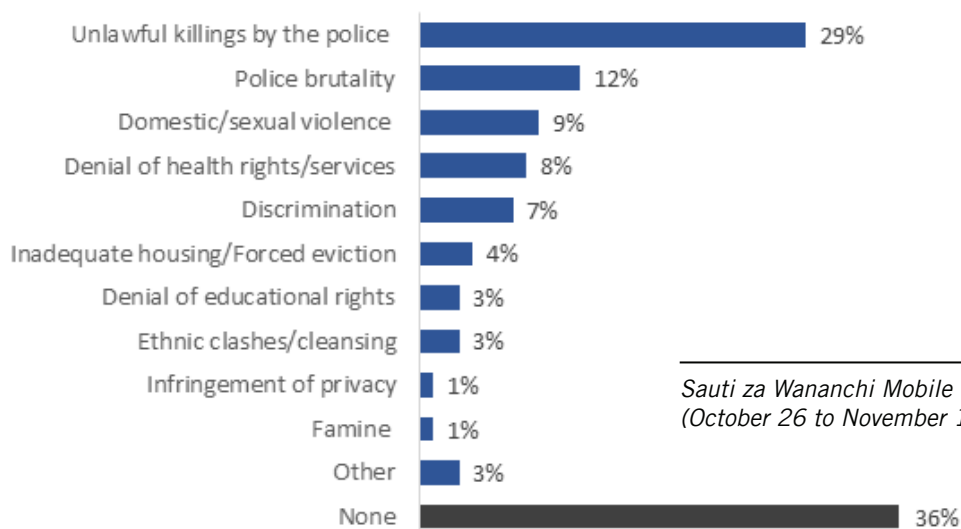
When it comes to the right to housing, 2 out of 10 Kenyans say they know someone who has forcibly been evicted from their home. The main reasons given for the evictions include land grabbing (25%), land disinheritance (20%), domestic dispute (16%), inability to pay rent (13%), acquisition of land for forest conservation (8%) and insecurity (5%).

On discrimination, very few (7%) Kenyans say a member of their family has been discriminated upon in any way directly or indirectly. The main forms of discriminations are said to have been on the basis of their ethnicity (23%), socio-economic status (16%), marital status (11%), health status (11%), conscience (9%), disability (6%), and gender (5%).

1 in 3 Kenyans has seen or heard about unlawful killings by the police in the last six months

One out of three people saw or heard about unlawful killings by the police in the last six months. Other human rights violations mentioned alongside this include police brutality (12%), domestic/sexual violence (9%), denial of health rights/services (8%) and discrimination (4%) among others. Four in ten (36%) say they did not see or hear about human rights violations during that period.

Which human rights violations have you heard or seen in the last 6 months? (multiple responses permitted)



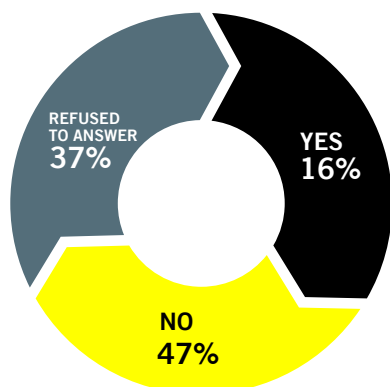
Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

At a personal and family level, very few (16%) Kenyans say a family member has ever been intimidated by a police officer, 13% say they have personally experienced the same in the hands of a police officer. One out of ten 13% Kenyans say that a family member has been assaulted by a police officer and 7% of those polled that they have personally been assaulted.

1 out of 10 Kenyans says their rights have ever been violated

One out of ten (16%) Kenyans says that their rights have ever been violated. 47% have not experienced a violation of their rights while 37% declined to share their opinion on this. Among victims, the right to property is the most mentioned violation (29%). This is followed by the freedom of expression (11%) and the right to the highest attainable standard of health (9%).

Have your rights ever been violated?



Those stating that their rights have been violated mention offenders as being family members (21%), policemen (21%), and National Government officials (12%). Those also mentioned include staff at a health facility (9%), chief (6%), county government officials (5%), business colleague/partner (5%) and officials of private sector organizations (4%). Six in ten (60%) of those abused say they did not report the violation.

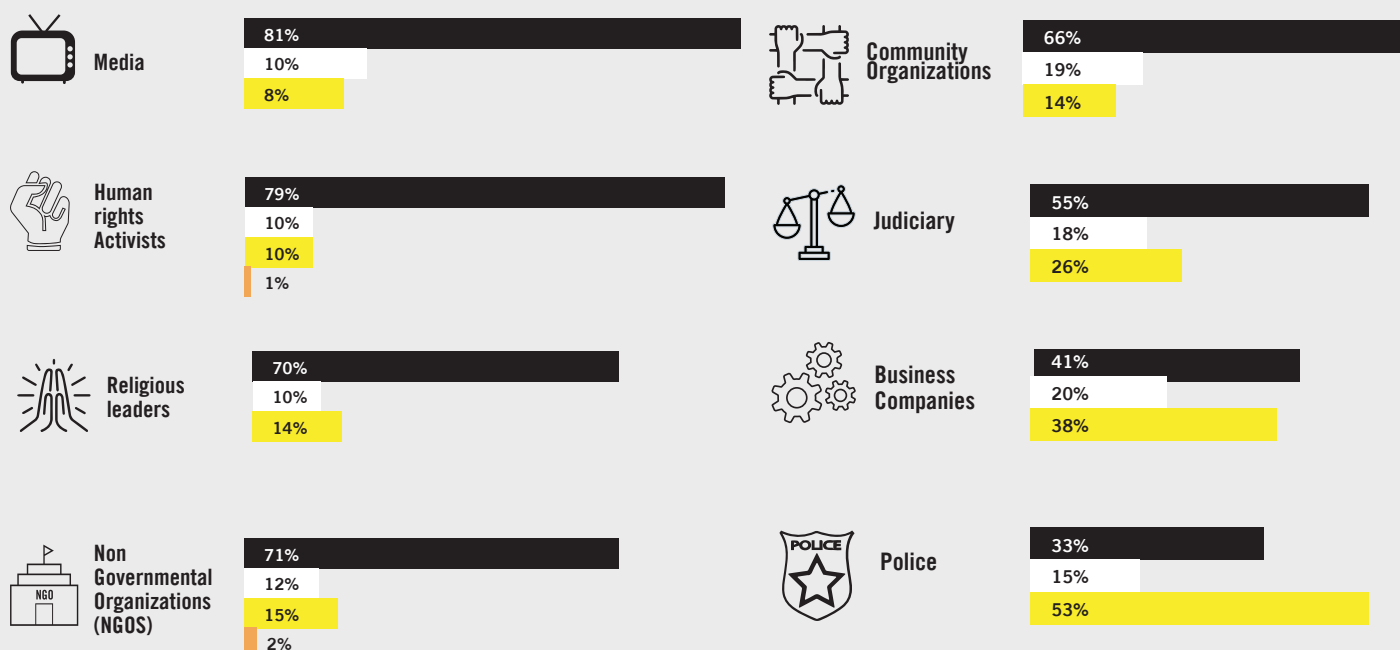
The survey also finds that 1 out of 10 (16%) Kenyans says that a member of their family has been denied health rights or had their health rights violated at a health facility. Nearly all these cases are said to have taken place at a public health facility; public hospitals (81%), dispensary (14%), private hospital (5%), and health clinic (5%). The main type of violation is denial of access to drugs (70%), denial of admission (16%), getting overcharged (11%), and abuse by health workers/verbal abuse e.g. insults (8%) among others.

Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

People's trust in the media, human rights activists and religious leaders is high compared to the judiciary, business companies and the police

When it comes to addressing human rights, the majority express trust in the media (81%), human rights activists (79%), and religious leaders (76%). Also highly trusted are Non-Governmental Organizations (71%) and Community organizations (66%). Trust in the judiciary is expressed by half of men and women interviewed (55%), while business companies and the police have significantly lower levels of trust; 41% and 33% respectively.

How much do you trust the following actors in addressing human rights?



KEY:



Trust



Neither Trust nor distrust



Mistrust



Have never heard of this institution

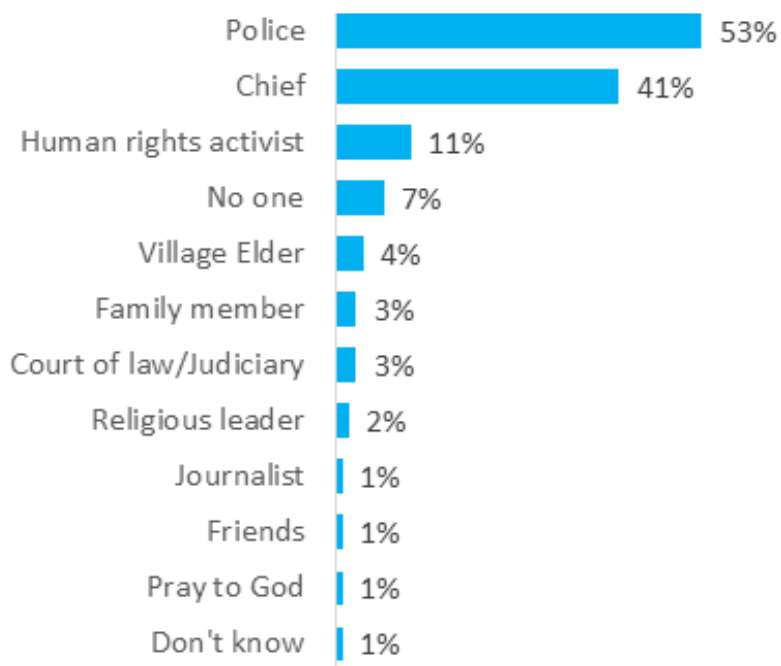
Source: Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

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Most Kenyans would report human rights violations to police and the local chief

Half (53%) of Kenyans and four out of ten (41%) say they would report human rights violations to the police and chief respectively. One out of ten (11%) would report to a human rights activist and 7% say there's no one that they would report to. Others include a village elder (4%), a family member (3%), religious leaders (2%) among others.

If your rights were violated, who would do you go to? (multiple responses permitted)

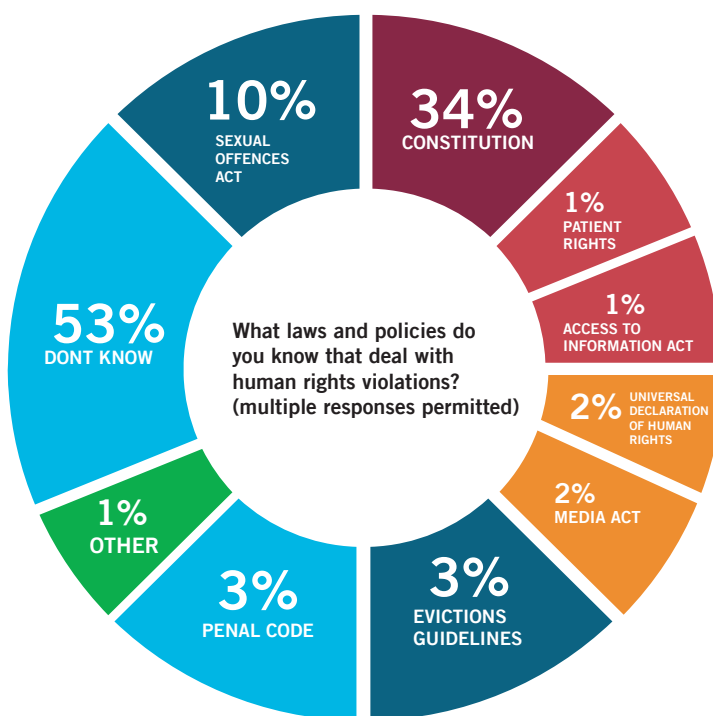


Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

Half of Kenyans say they do not know laws and policies that deal with human rights violations

Half of Kenyans (53%) say they do not know laws and policies that deal with human rights violations. However, the Constitution is mentioned by 1 out of 3 (34%). Other mentions include the Sexual Offences Act (10%), and the Penal Code (3%).

What laws and policies do you know that deal with human rights violations? (multiple responses permitted)



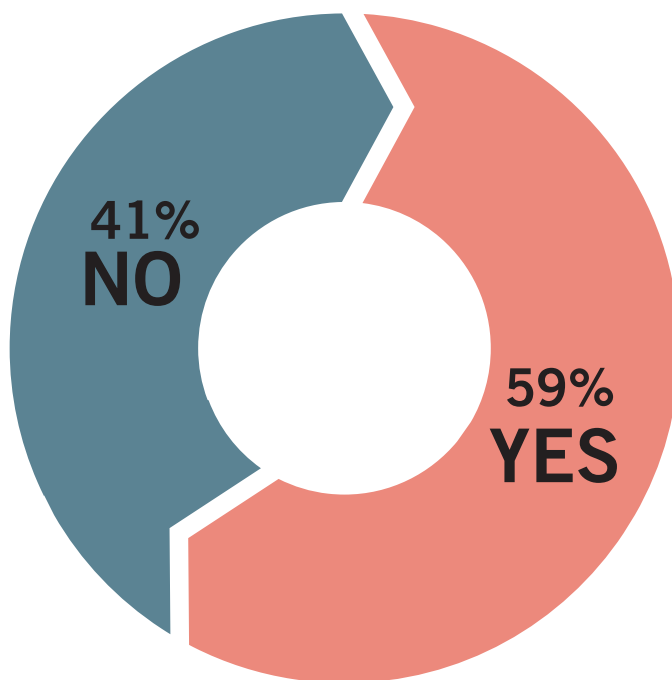
Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

Four out of ten Kenyans have heard of the Big Four Agenda

Have you heard of the National Government's Big Four Agenda?

Six out of ten Kenyans (59%) say they have not heard of the National Government's Big Four Agenda. Among those aware, affordable healthcare is mentioned by 54% followed by affordable housing (46%), food security (42%), and manufacturing (32%).

Citizens also mentioned other aspects of development such as quality and affordable education, and better road networks.

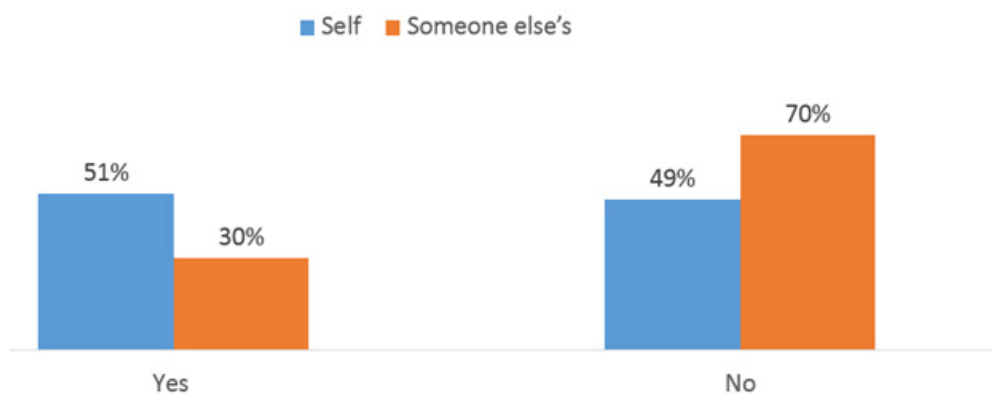


Source: Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

Half of all Kenyans say they have stood up for their rights; 1 in 3 have stood up for others' rights

One out of every two Kenyans (51%) have stood up for their own rights. Three out of ten Kenyans have stood up for the rights of others (30%).

have you ever stood up for your human rights or that of someone else?



Source: Sauti za Wananchi Mobile Phone Survey, Round 24 (October 26 to November 18, 2018; n=1,619)

Conclusion

The thirteen findings in this 2018 Human Rights Survey demonstrate that human rights have improved in Kenya since 1948 (65%) and 2010 (69%). However, half of Kenyans do not believe that the law is applied equally as a result of wealth inequality (67%) and corruption (51%). The inequality of access undermines a core constitutional promise contained in the Kenyan Bill of Rights.

Despite unequal enforcement of the constitution, over 23 million Kenyans (50%) still believe that their rights are adequately protected by the Constitution. The 70th anniversary of the Universal Declaration of Human Rights offers Governments, people, and all non-state actors across the world the opportunity to reflect on the state of human rights.

Rising global levels of extremism, hate-speech, inequality and violence may suggest that the Declaration has not achieved its objectives. To think this, would be overlook recent achievements. There more sovereign Governments elected by universal suffrage than in 1948. Populations are eating better, poverty levels are dropping and the gender gap is narrowing. The right to health inches closer with new vaccines for cholera

and decreases in deaths caused by AIDS, cancer, diarrhea and respiratory diseases in 2017.

As Kenyans, we have come very far since our founding fathers and mothers took up the struggle for independence. That our country has become more open, active and free did not happen by chance. Independence movements, countless human rights organisations and activists both in our Government and civil society have blazed the way since 1948.

These men and women felt and acted on the impulse that some rules needed to be intentionally broken for society to breathe. Their lives leave us an important lesson. In the presence of injustice and discrimination, cohesive, compassionate and caring societies have always been created by rebels.

The lives they wanted are now enshrined in the Universal Declaration of Human Rights, Chapter Four and the Bill of Rights of our Constitution. Today, we must make human rights issues every body's business.

We owe it to the ones that have come before us.

For more information on the UDHR@70 activities in Kenya and the world:

www.standup4humanrights.org
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For more on our organisation's work to promote and protect human rights;

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