

# 2022 ELECTION BUSINESS PRIMER

Kenya



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# 2022 Election Business Primer - Kenya

**Discrimination against LGBTQ+ people has a direct impact on the Kenyan economy, lowering company competitiveness, restricting Kenya's Vision 2030's success, and discouraging foreign investment in Kenyan markets. As a result, Kenya's international reputation, foreign direct investments, tourism, and reputation as a growing innovation hub are all negatively affected. These consequences, when added together, are inflicting a dent in Kenya's GDP.**

## Context

Kenya will elect a new government in August 2022, that will determine the political attitude and direction of among other issues, LGBTQ+ equality and acceptance for years to come. This will be the fifth presidential elections since the introduction of multiparty politics in 1991.

The elections will have a deep impact on the country's economy. Two of the main political parties and presidential aspirants aim to build the economy through gender inclusive initiatives, universal health care and economic relief for poor families. To achieve this, the incoming government must consider all aspects that make an economy thrive. More and more studies show the business value of expanded human rights, as institutional financial decision makers favor indicators of openness. In the following primer we hope to provide further data and a deeper understanding to accompany our 2019 Kenya report.

## Foreign Investment

The Government of Kenya aims to position the country as Africa's leading industrial and financial hub<sup>i</sup>. Achieving this goal will see Kenya attract more global firms thus providing more jobs and improve the economy greatly. However, Kenya is not the only East African country angling for this position as Rwanda and other countries also vie for these investments<sup>ii</sup>.

With the **contribution of Foreign Direct investment (FDI) falling from 1.6% in 2017 to just 0.4% GDP in 2020<sup>iii</sup>**, there is no question that Kenya must improve in all areas that make an economy thrive.

The government of Kenya's reluctance to repeal harmful anti-LGBTQ+ laws and the failure of the current 2022 government to protect human rights violations<sup>iv</sup>, has brought on negative feedback with foreign investors, thus contributing to the country's poor performance in attracting FDI.

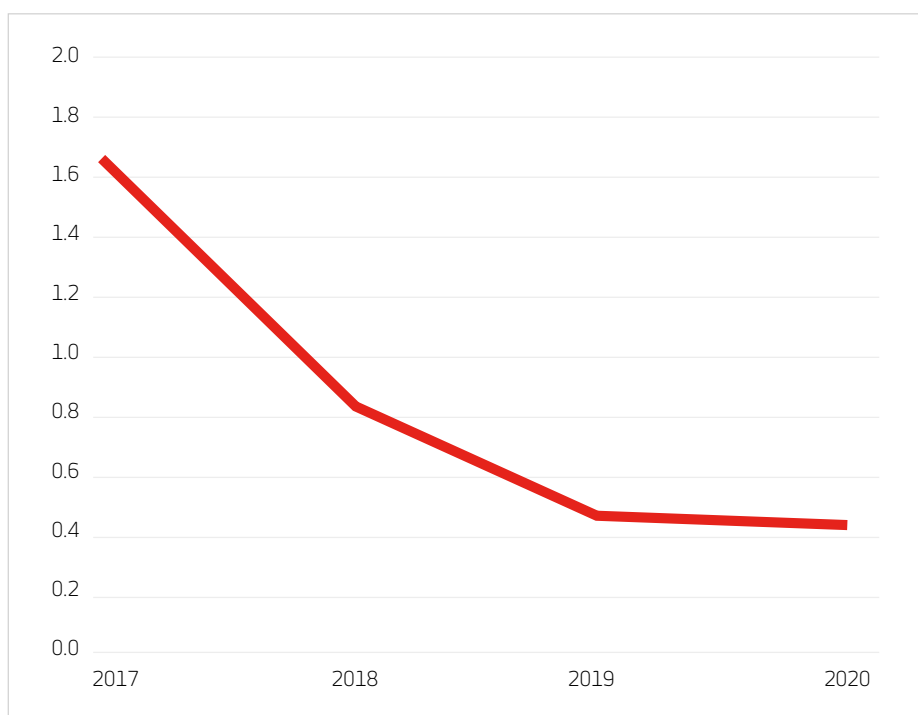


Figure 1: Decline in Kenyan FDI by percentage (2017-2020)

International Monetary Fund, International Financial Statistics and Balance of Payments databases, World Bank, International Debt Statistics, and World Bank and OECD GDP estimates.

### Health Outcomes

The LGBTQ+ community in Kenya faces health issues such as HIV/AIDS<sup>v</sup> and depression at higher rates than the general population<sup>vi</sup>. Stigmatization and inadequate accessible health services affect the LGBTQ+ community leading to poor health outcomes. This is significantly costing the economy Kes. 105b – 8b annually<sup>vii</sup>.

Fostering a more accepting society where LGBTQ+ individuals experience less discrimination will in turn lessen these gaps and develop a healthier and more economically successful society. This is one of the benefits of universal health coverage, a shared goal by at least two of the main political parties in Kenya<sup>viii</sup>.

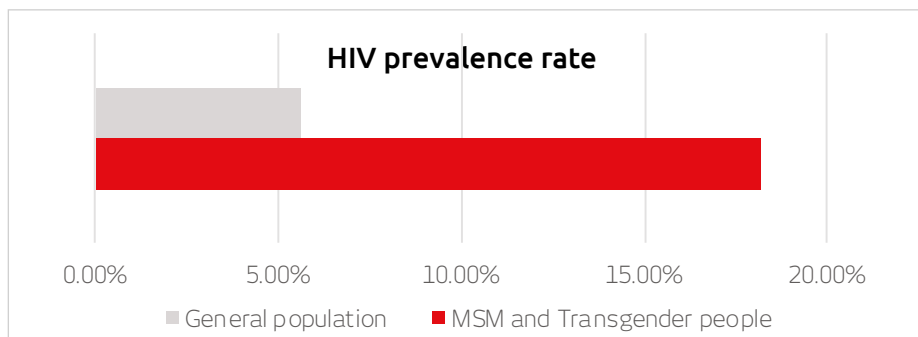


Figure 2: Prevalence of HIV/AIDS amongst LGBT+ (or MSM/trans) people and the general Kenyan population

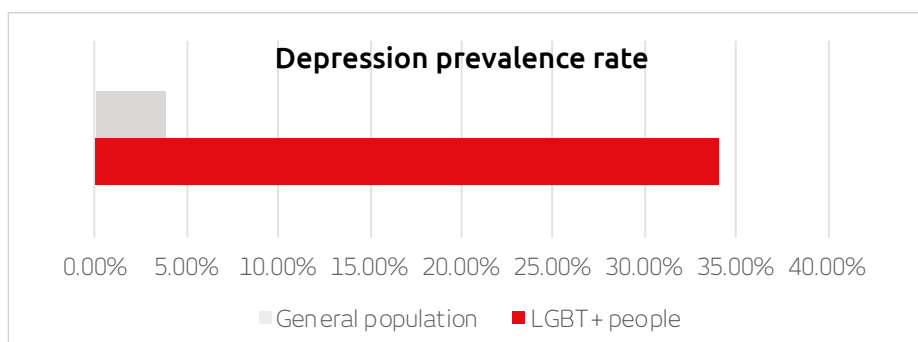


Figure 3: Prevalence of depression amongst LGBT+ (or MSM/trans) people and the general Kenyan population

### Tourism

Africa is a global hub of tourism, which the Kenyan government sees as one of the flagship industries of the country. One job is created for every 11th tourist (domestic and international) in the country<sup>ix</sup>. As governments restricted movement due to the COVID -19 pandemic, Kenya saw a slump in tourism revenue to approximately USD 740B in 2020<sup>x</sup>.

With the global travel industry looking to bounce back as COVID fears slowly fade, millions of tourists are looking to get back to their travel plans and spend their holidays in destinations such as Kenya. For the tourism board to realize its goal to increase revenue from tourism and recover lost jobs and revenue due to the pandemic, creating a more LGBTQ+ inclusive environment can support Vision 2030's goal for aggressive marketing in

global markets. This will also increase visibility of the Kenya brand in terms of tolerance, inclusiveness, and diversity. While the general wisdom is that only LGBTQ+ tourists might consider not traveling to a country because of their LGBTQ+ legal situation, surveys done by Open For Business show that 51% of all tourists whether business, heterosexual, or LGBTQ+ are unlikely to travel to destinations that have anti-LGBTQ+ laws<sup>xi</sup>.

### Corruption and Human Rights

LGBTQ+ discrimination often goes hand-in-hand with corrupt practices and a lack of openness. This comes as no surprise as corruption is a culture of excluding groups and individuals from gaining access to services and benefits by those in power. Analysts increasingly link the high levels of corruption to the stagnation of investments and economic growth in Kenya. Government level diversity and inclusion policies effect employment and power distribution, and countries which lack these policies leave more room for corruption to flourish.

Transparency International’s 2021 corruption index ranks Kenya at 128th out of 180 countries, behind Rwanda and Tanzania<sup>xii</sup>. As previous Open For Business research has shown, corruption and LGBTQ+ rights are highly correlated, which we witness in Kenya as well<sup>xiii</sup>.

In a recent human rights score card report by Amnesty International, Kenya’s government received a score of 46%<sup>xiv</sup>. Unfortunately, the administration did not meet the threshold of effective implementation in any of the five areas reviewed against the 23 sub-themes in the report.

The report notes that there have been significant accomplishments, particularly in the construction of infrastructure, access to healthcare, and advocacy for intersex people’s rights. Nevertheless, there have also been severe and ongoing failures to adequately protect Kenyans against breaches of human rights<sup>xv</sup>.

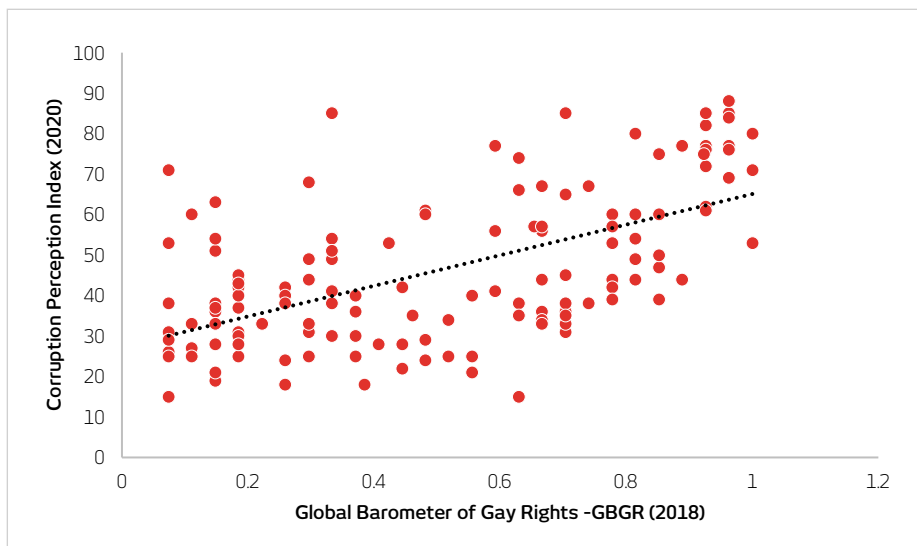


Figure 4: Human rights protections for gay people (x-axis) vs. perceived corruption ranking (y axis)

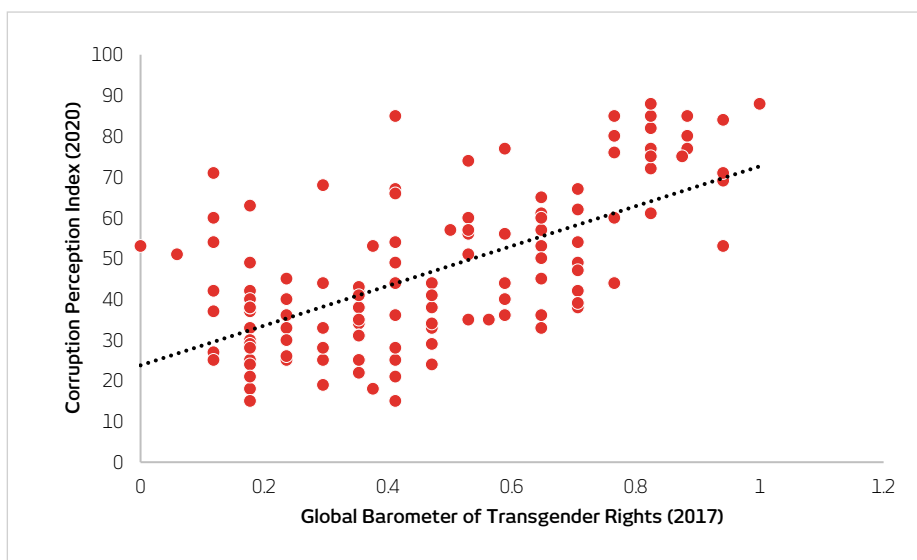


Figure 5: Human rights protections for transgender people (x-axis) vs. perceived corruption ranking (y axis)

## Financial Performance

Businesses with greater diversity perform better financially. Improving LGBTQ+ diversity could strengthen a company's performance in terms of share price. Globally, LGBTQ+ inclusive employers have experienced returns of 9.1% since 2010, higher than the market average<sup>xvi</sup> making this a new and upcoming market indicator. Stronger financial performance flows from the increased ability of LGBTQ+ inclusive companies to attract and retain talent, to innovate, and to build customer loyalty and brand strength.

This is shown by the data that exists at a global level and is also true for companies operating in Kenya. As Open for Business' 2019 research discovered, of the 47 listed companies on the Nairobi Securities Exchange, those with demonstrated ethnic diversity yielded a positive correlation with the 5-year absolute return<sup>xvii</sup>.

Additionally, an analysis based on gender diversity of the same 47 companies indicated a strong 5-year absolute return. The 24 top-ranking gender diverse businesses achieved a return of 16.7% compared to the bottom 23 firms that saw a 5-year absolute loss of 29.6%. These effects compound together,

decreasing the competitiveness of Kenyan companies and Kenya as a society, discouraging foreign investment from Kenyan markets, and putting a dent in the Kenyan GDP.

## National reputation

National reputation underpins Kenya's ability to attract talent and investment, to drive tourism and to grow exports. Discrimination can greatly undermine national reputation.

While the country has a gross domestic product (GDP) of over \$100 billion, has attained lower-middle income status, and serves as the point of entry to the East African markets (over 300 million people), these great strides have not been fully inclusive, leaving many in poverty.

On 24 May 2019, the High Court of

Kenya rejected an application to declare sections 162 and 165 of the penal code unconstitutional. As a result, the LGBTQ+ community continues to experience discrimination, indignity, and injustice. The ruling was widely criticized by civil society organisations. In contrast, we have seen some improvement in Kenya. In its national population census, the government of Kenya collected data on intersex persons, which is the first time this has been done in Africa.

Nairobi moved up from D to DD in the

Open For Business City ratings this year (2022) for the first time since the ratings were published in 2018. This is attributed to small gains in LGBTQ+ inclusion, driven by 1) a strong LGBTQ+ movement that is constantly working to shift norms and to repeal the unconstitutional penal codes, and 2) a focus on building strong innovation and start-up hubs in the city. If continued, this could be the initial stages of Nairobi's climb up the City Ratings. However, the criminalization of same sex intimacy continues to keep Nairobi in the lower rankings.

# About Open For Business

The purpose of Open For Business is to advance LGBTQ+ rights globally. We are doing this in two ways. At an international level, we are building a consensus amongst the business community that anti-LGBTQ+ policies run counter to the interests of business and economic development. At a local level, we are creating advocates in the local business communities, strengthening local business voices by providing them with evidence and fact-based arguments.

Three core objectives follow from this: first, to construct and promote unique research perspectives on the economic and business case for LGBTQ+ inclusion; second, to catalyze a collective voice on LGBTQ+ inclusion from the global business community; and third, to facilitate local networks of senior business leaders to advance LGBTQ+ inclusion.

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