

STRATEGIC PLAN 2020 - 2024



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LIST OF ACRONYMS AND ABBREVIATIONS

BBI:	Building Bridges Initiative
Constitution:	Constitution of Kenya 2010
CSO:	Civil Society Organizations
ECOSOC:	Economic Social and Cultural (Rights)
HRD:	Human Rights Defender
ICT:	Information and Communication Technology
KI:	Katiba Institute
MERL:	Monitoring, Evaluation, Research and Learning
PIL:	Public Interest Litigation
SJC:	Social Justice Centres
SMT:	Senior Management Team
ToC:	Theory of Change

FOREWORD

Katiba Institute (KI) is a research, policy, and public interest litigation organization mainly focussed on constitutional issues. It was established in 2011 to help with the implementation of Kenya's 2010 Constitution and to assist in developing a culture of constitutionalism in Kenya. Katiba Institute's principal objective is to achieve social transformation through the implementation of the Constitution.

In 2015, KI developed its first Strategic Plan, which came to an end in December 2019. This second strategic plan covers the period 2020-2024. The plan has been developed based on the recognition that KI must regularly reposition to ensure alignment with shifting operational contexts.

The strategic plan is an outcome of a co-creation process entailing a thorough analysis, consultations, and reflections by KI and its stakeholders. This included a detailed review of KI's operating context, an analysis of stakeholders, and reflections on KI's progress against the previous strategy in order to draw lessons to inform future practice. Additionally, the strategy development process entailed a review of KI's organizational identity, philosophy of change, strategic focus areas, and corresponding objectives, interventions, and strategies.

The Strategy is founded on five programme pillars:



1. Leadership and integrity



2. Devolution



**3. Fundamental rights
and freedoms**



**4. Environmental justice, natural
resources governance and
climate change justice.**

The fifth pillar, institutional wellbeing, focuses on the KI's internal quality, effectiveness, and sustainability. Further, KI has adopted five overarching strategic approaches: public interest litigation; research and publications; technical support; partnerships and community outreach; and access to information and constitutional education.

The Strategic Plan sets KI's broad strategic direction and will be operationalized through detailed annual plans and individual programmes and projects.

KI will retain its commitment to collaborative approaches. We will work with and through civil society actors, offer technical support to state actors, and collaborate with non-traditional allies within the private sector.

We are grateful to Luminate (Omidyar) Group, and the William and Flora Hewlett Foundation, who graciously supported the development of this plan. We are equally indebted to our other partners, peers, and stakeholders who continue to support our cause. We call upon these stakeholders to join us as we venture into this exciting, ambitious, and challenging phase of our journey.

We believe that with the confidence and support of our partners, we shall attain our goal of contributing to the implementation of the constitution and entrenching a culture of constitutionalism, which should, in turn, lead to better governance, respect for the rule of law, and social justice.

Jill Cottrell Ghai
Chair, Board of Directors

Christine Gakii Nkonge
Executive Director

1.0

BACKGROUND AND INTRODUCTION

1.1

About Katiba
Institute

1.2

Organizational
Identity

1.3

Governance
and
Management

1.4

Track Record

1.1 About Katiba Institute

Established in 2011, Katiba Institute seeks to promote knowledge and understanding of Kenya's Constitution and constitutionalism and to defend the Constitution and facilitate its implementation. The organization is non-profit, non-partisan, and non-governmental, and is registered in Kenya as a company limited by guarantee. Much of its work has centred on the need to promote respect for the procedures, objectives, and values of the Constitution. It keeps in the forefront the needs of ordinary citizens, including the disadvantaged and the marginalized, through enforcement of rights, public participation, representation, and inclusion.

We work with communities and organizations dedicated to fostering principles of constitutionalism, particularly in relation to demanding leadership and integrity, protecting human rights and fundamental freedoms, establishing principles of devolution, and protecting the environment.

KI engages in public interest litigation, research and publication, education and capacity enhancement, advocacy, legislative review, technical support to individuals, organizations and government institutions, awareness creation on constitutional provisions, as well as promoting the participation of Kenyans in public affairs. KI partners with organizations specializing in different aspects of the Constitution, or of aspects of life affected by the Constitution.

1.2 Organizational Identity



Vision



Mission



Slogan

A just and equitable society founded on constitutionalism.

To champion constitutionalism through research, public interest litigation and promoting public participation.

Constitution as an instrument for socio-economic transformation



Organizational values

KI is committed to the Constitution and its values of transparency, accountability, social justice, integrity, participation, equality and non-discrimination, and respect for human rights. We adhere to these values in our internal management and operations and strive to foster them in the Kenyan society.

The Board sets KI's broad strategic direction, acts as a sounding board for management, ensures compliance with agreed values and strategies, offers financial advice, and oversees financial integrity.

1.3 Governance and Management

KI is governed by a Board of Directors (Board), established by its Memorandum and Articles of Association, and governed by the KI Board Manual. The Board is designed to be an advisory and supervisory body that shares a commitment to the values and objectives of KI, and who—from their own, varied, experience and knowledge—can assist KI to identify and achieve its objectives. The Board sets KI's broad strategic direction, acts as a sounding board for management, ensures compliance with agreed values and strategies, offers financial advice, and oversees financial integrity.

The board comprises individuals of high repute, credibility and technical expertise in various fields. The board members, as of the time of developing this strategic plan, have professional backgrounds in amongst others law, sociology, anthropology, theology, and journalism. Profiles of the board members can be found at www.katibainstitute.org

KI's management is on the other hand headed by the Executive Director. The day-to-day management of KI is overseen by a Senior Management Team (SMT) comprising the Executive Director, Institutional Development Manager, Senior Finance Officer, Programmes Manager, and Litigation Manager. The SMT holds scheduled, structured monthly meetings to deliberate on the welfare of the institution.

Although the management style is determined by the Executive Director and her senior staff, KI is committed to a participatory and democratic approach to internal management and decision making.

1.4 Track Record

KI prides itself on its many achievements since its establishment. Notable examples include:

1

Landmark public interest litigation to promote and enforce the Constitution. This has included cases promoting openness and accountability in the use of public funds, fair administrative action, free and fair elections, the rights to a clean and healthy environment, livelihood, and culture, the rights to freedom of association, assembly, and expression, and the right to decent housing. Other cases have been brought to ensure that the government complies with its duties under the Constitution. These cases are not for the sake of unthinking compliance with rules, but because those rules are designed to ensure other values, such as the independence of the judiciary, democracy and participation, and effective decision making. These PIL cases have contributed greatly to enhancing the rule of law, good governance, and social justice.

2

Extensive research and writing on constitutional issues for both scholarly and lay audiences. KI has published books, booklets, manuals, scholarly papers, legal opinions, and newspaper articles. KI's work has been cited in court judgments, by state institutions in developing policies, media in elaborating its commentaries, and civil society in developing civic education materials. The research also informs KI's litigation. The publications are generally available at www.katibainstitute.org. KI is also setting up a library where people may request to read the materials.

3

Development of public and institutional capacity to understand and implement the Constitution. KI has contributed greatly to capacity development of judicial officers through the Judiciary Training Institute. KI has also improved the capacity of Members of County Assemblies and County Executive Committees in partnership with the Council of Governors and various Civil Society Organizations (CSOs). Katiba Institute has held numerous educational programmes for the public, civil society, advocates, court researchers, journalists, students, state departments, and inter-governmental organizations. It is also regularly consulted by individuals, institutions, advocates, and scholars on PIL and constitutional matters.

4

National and international collaboration. KI has established a diverse portfolio of strategic national and international partners with whom it works. These include actors drawn from civil society, the judiciary, parliament, legal professionals, as well as academics and experts on constitutional matters. These partnerships play a critical role in contributing to sustainable system-level change.

5

Development of unique, in-house expertise. While happy to cooperate with various bodies, when it comes to its litigation work, KI relies on its in-house team of experts. Most of its research, writing and publication is also done in-house. This enables greater quality control, the institutionalization of expertise, cost efficiency, and the ability to engage in complex litigation. KI has received various awards for its work, such as the ‘Civil Society Legal Department of the Year Award in Public Interest Litigation’ by the Law Society of Kenya in 2017 and one of its staff members received the Pro-bono/Public Interest Jurist of the Year Award by the Law Society of Kenya and Amnesty International in 2018.

6

Advocacy for human rights defenders (HRDs). KI has also been involved in the front-line defence of HRDs based on the recognition that constitutional transformation derives from community demand. KI stands in solidarity with HRDs, protects them as they demand change, and provides them with a broader voice to demand that the government comply with its constitutional, ethical, and moral obligations. KI lawyers regularly help to secure the freedom for HRDs arrested in the course of their work.

2.0

STRATEGIC ANALYSIS: CONTEXT REVIEW AND REFLECTIONS

2.1

Overview of
the Operating
Context

2.2

Overview of KI
Strengths, Weaknesses,
Opportunities and
Threats (SWOT)

2.3

Looking Back:
What We Have
Learned

2.1 Overview of the Operating Context

Aware that the external context may change over time, this section provides a broad overview of the situation in Kenya at the time this strategic plan was developed. KI will adjust the strategy should changes in the operating context require.

2.1.1 Status of Democratic Governance and Rule of Law

Kenya promulgated a progressive and transformative constitution in 2010, which introduced fundamental changes to the country's governance structures. The spirit of these changes is reflected in the national values and aspirations identified in the Constitution. Article 10 contains the national values and principles of governance, while Chapter Six requires integrity of the nation's leadership, including provisions on how the power vested in state officers should be exercised.

The Government of Kenya has undertaken various measures to realize the national values and principles of governance. These measures include the enactment of laws and policies, devolving various state functions to the counties, and strengthening the capacity of county officers to implement those functions. These efforts notwithstanding, gaps and challenges remain. These include weak implementation of policies and laws, endemic corruption, and a failure to develop a culture of constitutionalism¹. These challenges are driven by, among others,

¹Kenya National Commission on Human Rights. 2017. Jubilee Government Score Card: Realisation of the National Values and Principles of Governance and Fulfilment of Kenya's International Obligations for the Period 2013-2017.

poor resourcing, weak institutional capacities, ethnicity and identity politics, political interference, impunity of public officers, and the dominance of the executive branch of government².

Other manifestations of poor governance include chronic insecurity and conflict, pervasive violations of fundamental rights, marginalization of certain groups, undermining of independent institutions, and persistent attacks on the media. Further, Kenya's government often disregards or selectively applies the law³. Kenya scored poorly in the 2020 Rule of Law Index by the World Justice Project, at position 101 out of 126 countries surveyed⁴. The failure to uphold the rule of law undermines efforts to protect human rights and enhance social justice.

The effects of poor governance are exacerbated by Kenya's pervasive poverty: a fact that has been brought home during the COVID-19 crisis as it has become clear how many people are vulnerable to economic, medical, and social setbacks. This situation is destined to become worse as the economic, health, and social consequences of the pandemic unfold.

Kenya's political instability also presents challenges. Kenya is a presidential representative democratic republic, with elections as the main means of political power transfer. A raft of constitutional, legal, and institutional frameworks governs the conduct of elections. Despite these provisions, general elections held under the 2010 Constitution have been marred by incidents of unrest, violence, and allegations of election fraud, leading to heightened tensions, constriction of civic space, and deep ethnic rifts⁵. A political truce between President Uhuru Kenyatta and Raila Odinga in 2018 culminated in the Building Bridges Initiative (BBI), which has been presented as a mechanism to identify and address shortcomings in government, uniting Kenyans by addressing ethnicity, exclusion, and corruption while entrenching devolution, national values and principles of governance, and human rights. There is, however, a risk of the BBI process can being used to water down the Constitution to benefit the political and economic

²Open Society Publications. Kenya: Democracy and Political Participation. Accessed on 15th December 2020 from <https://www.opensocietyfoundations.org/publications/kenya-democracy-and-political-participation>.

³Patricia K. M., and Migai A. 2001. Kenya Justice Sector and Rule of Law. Accessed on 15th December 2020 from <https://www.opensocietyfoundations.org/uploads/38762285-51db-4bac-b8f9-285cf0ef2efc/kenya-justice-law-20110315.pdf>

⁴World Justice Centre. 2020. Rule of Law Index 2020. Accessed on 15th December 2020 from https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf

⁵Kandie E., 2017. Kenya Elections accessed from

<https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1028/The-2017-Kenya-General-Elections> on 15th December 2020.

⁶Yash Pal Ghai. 2020: Selfish Political Elite at Heart of Push to Change Supreme Law. Accessed on 15th December 2020 from

<https://katibainstitute.org/yash-pal-ghai-selfish-political-elite-at-heart-of-push-to-change-supreme-law/>

2.1.2 Devolution

The Constitution reconfigured the balance of power in Kenya by adding a new layer of devolved governance that comprises 47 county governments⁷. Devolution is perhaps the biggest gain from the Constitution⁸. Devolution reversed the system of centralized control and authority and brought the government closer to the people by providing spaces for citizens to actively engage in political and socio-economic decision-making⁹. If well-governed, devolution can attract greater grassroots investment for development, poverty reduction, and employment creation.

According to the World Bank¹⁰, county governments and civil society have made progress in promoting citizen participation and citizen-state engagement, strengthening accountability, and enhancing the proximity and quality of devolved services. Other achievements include the establishment of supportive institutions such as the Council of Governors and Commission for Revenue Allocation, and the development of regional economic blocs that could bolster local economic development.

Devolution has, however, not been without challenges. These include irregular or delayed disbursement of devolved funds from the national exchequer, corruption, administrative weaknesses, and weak monitoring systems. Other challenges include low local revenue collection, inadequate execution capacity, misallocation of financial resources, and political infighting. Further, the national- and county-level governments often duplicate their efforts.

Separately, while public participation is embedded in the Constitution and reflected in recent legislation and court judgments, citizen participation and accountability have been ineffective in most counties. This is partly due to inadequate civic awareness, limited political consciousness, and inadequacy of structures for state-citizen engagement and the knowledge thereof. Other key impediments to effective public participation include uncoordinated civic education by various actors, limited access to information, and insufficient political goodwill.

⁷Michelle D. 2018. Kenya Illustrates both the Promise as well as the Pitfalls of Devolution. Accessed on 15th December 2020 from

<https://theconversation.com/kenya-illustrates-both-the-promise-as-well-as-the-pitfalls-of-devolution-96729>

⁸The World Bank. 2020, Kenya Country Overview. Accessible at

<https://www.worldbank.org/en/country/kenya/overview>

⁹IEA Kenya 2019. A Political Economy Analysis of Devolution in Kenya. Accessed on 15th December 2020 from <https://www.ieakenya.or.ke/publications/research-papers/a-political-economy-analysis-of-devolution-in-kenya>

¹⁰The World Bank. 2015. Public Participation Key to Kenya's Devolution. Accessed on 20th December 2020 from <http://www.worldbank.org/en/news/feature/2015/04/30/public-participation-central-to-kenyas-ambitious-devolution>

2.1.3 Access to Justice, Respect for Rights and Fundamental Freedoms

Fundamental human rights in Kenya are covered in Chapter 4 of the Constitution. Several statutes have been passed to implement these rights. However, the state has also been proposing, enacting and implementing laws that limit some of these rights, including the rights to freedom of peaceful assembly and association. State organs are increasingly using their powers to infringe on the rights to life, security, and expression¹¹. Security forces are the most egregious violators. They have engaged in kidnapping, enforced disappearances, and extrajudicial killings. Rather than hold security services accountable, the state has often responded to critical press coverage with harassment, threats, criminal charges, withholding of advertising revenue, and violence against journalists and media outlets. The state has attempted to justify these retributive responses by enacting regressive and punitive media and security laws¹².

The protection and fostering of Economic, Social, and Cultural Rights (ECOSOC) guaranteed under Articles 41-46, and particularly Article 43, of the Constitution have yet to be realised. Kenya still grapples with poverty, inequality, insecurity, unemployment, food insecurity, and economic instability¹³. According to the Kenya National Bureau of Statistics, 60% of Kenya's wealth is in the hands of 20% of the population¹⁴. Despite these alarming statistics, the state has been slow to embrace ECOSOC rights as a vehicle for social transformation¹⁵. The Executive has exhibited a disregard for these rights by either not implementing legislation or refusing to comply with court orders that would help implement them¹⁶.

The Judiciary, which plays a central role in ensuring that the rights guaranteed under the Constitution are protected, has made strides toward greater independence, effectiveness, and fairness. While the Courts are far from perfect, since 2010 they have been able to assert their independence from both the president and the legislature. The courts have also been an important defender

¹¹Katiba Institute. 2019. The state of human rights and freedoms in Kenya Accessed on 15th December 2020 from <https://katibainstitute.org/the-state-of-human-rights-and-freedoms-in-kenya/>

¹²Henry O Maina, "An Audit of the Constitution of Kenya: Friend or Foe – The Government of Kenya and Freedom of Expression

¹³The World Bank. 2020, Kenya Country Overview. Accessible at <https://www.worldbank.org/en/country/kenya/overview>.

¹⁴KNBS 2016 Basic Report on Wellbeing in Kenya.

¹⁵Mwendwa M. 2019. The Jurisprudence of Kenya's Court of Appeal on Socio-Economic Rights. Accessed on 15th December 2020 from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3379560

¹⁶Katiba Institute. An Audit of the 2010 Constitution of Kenya. Accessed from <https://katibainstitute.org/wp-content/uploads/2020/06/An-Audit-of-the-2010-Constitution-Katiba-Institute.pdf> on 15th December 2020.



of individual rights by, for example, blocking the implementation of repressive legislation and issuing judgements in favour of individuals and CSOs that have had disputes with the government.

Despite these gains, many challenges remain. Court fees and other barriers limit people's access to the Court system, while allegations of corruption within the judiciary undermine judicial independence and effectiveness. Political considerations often colour prosecutorial decisions, threatening the rule of law, creating a perception of a rigged justice system and undermining the independence of the Judiciary. Parliament, the National Treasury, and the Executive branch, in particular, have used or abused their authority to undermine the Judiciary. They are responsible for extensive cuts to the Judiciary's budget. Other challenges include the failure (or refusal) to implement the Judiciary Fund as required under the Constitution, the refusal to appoint judges whom the President disfavours, the transfer of various tribunals away from the Judiciary, and attempts to discredit the Judiciary.

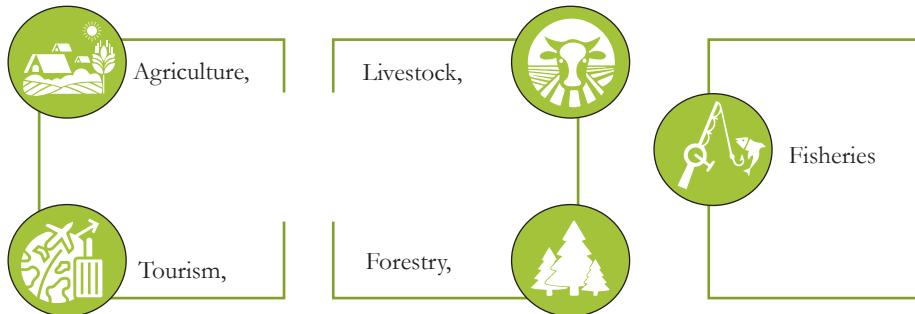
2.1.4 Environment and Climate Change

Combating climate change and protecting natural resources and the environment are fundamental aspects of the Constitution that are central to recognizing and enforcing human rights. Indeed, there is a right to a clean and healthy environment (Article 42). And sustainable development is a national principle, enshrined in Article 10.

Kenya has a National Environment Policy (2013), revised in light of the Constitution. This covers a very wide range of

environmental issues, including land use, wildlife and fisheries. It is backed up by the comprehensive Environmental Management and Coordination Act of 1989, which has detailed regulations on many issues, made between 2003 and 2014.

Kenya is especially vulnerable to the impacts of climate change since the key drivers of her economy below are climate-sensitive:-



Deforestation, eco-systems' degradation and unsustainable use of resources threaten vulnerable habitats, biodiversity, and livelihoods of many Kenyans.

The state has established various legal, policy, and institutional frameworks to address climate change. Nevertheless, the country is experiencing an increased loss of vegetation cover, ecological degradation, and pollution¹⁷. The National Environment Policy has a few pages on climate, but this was superseded by a Climate Change Policy in 2016. This is backed up by a National Climate Change Action Plan (currently 2018-22). This is subtitled “low carbon climate resilient development”, but – as it points out that Kenya contributes less than 1% of total greenhouse gas emissions, the main thrust is adaptation. However, it does include a commitment to reduce emissions by 30% by 2010 – relative to business as usual. But business as usual would undoubtedly increase emissions, so it is not clear that any reduction is actually envisaged. There is also a Climate Change Act, 2016. This sets up institutions and allows the imposition of “climate change duties” on the public and private sectors.

¹⁷The Government of Kenya. 2013. The national Environment Policy, 2013.

2.2 Overview of KI Strengths, Weaknesses, Opportunities and Threats (SWOT)

The table below summarizes the Strengths, Weaknesses, Opportunities and Threats of and for KI as identified in previous organizational capacity assessments and the strategic planning consultations. The identified strengths and weaknesses substantially inform the priority interventions for institutional development, whilst the opportunities and threats inform the general strategies adopted in section 3 of this plan.

STRENGTHS	WEAKNESS
<ol style="list-style-type: none">1. Highly skilled in-house team with diverse expertise.2. Positive work environment and teamwork.3. Well-respected, well-recognized, and having goodwill4. Partnerships and relations with diverse actors.5. Very competent and supportive leadership.6. Well established internal policies and systems.7. Has critical organizational resources (including office premises, work tools).	<ol style="list-style-type: none">1. Insufficiently diversified funding base.2. Limited optimization of ICT resources and opportunities.3. Inadequate profiling and visibility of KI's work.4. Insufficient sharing and dissemination of publications and knowledge.5. Non-optimal surfacing and reporting of results at outcome and impact level.6. Handling controversial issues while ensuring that we maintain our non-partisan nature.7. Lack of adequate resources to engage with communities in neighbouring and far-flung areas.
OPPORTUNITIES	THREATS
<ol style="list-style-type: none">1. Opportunity to reignite and build a stronger civil society movement.2. To enhance our partnership and engage with the private sector and state actors.3. Potential to tap into ICT to expand the scope and reach of KI's work.4. Growing number and capacity of human rights activists and social justice centres.5. Being the 'go-to institute' on constitutional matters.6. Leveraging respect and goodwill.7. Social capital of KI founders and leadership.8. Address attempts to erode constitutional gains	<ol style="list-style-type: none">1. Disruptive politics and elections.2. Shifting donor priorities and reduced funding.3. Government attitude and misconception of the activities of the CSO sector4. Closing civic space, increasing securitization, and human rights violations.5. Increasing state impunity, including ignoring court orders, corruption, and state capture.6. The ongoing affront to judicial independence and resourcing.7. Serious economic and social impacts arising from COVID-19.

2.3 Looking Back: What We Have Learnt

The following insights that emerged from previous KI evaluative reviews, reports, and strategic plan consultations have partly informed the strategic choices and strategies contained in section 3 of this strategic plan:

1

Adequate knowledge and understanding of rights and responsibilities drive action. Effective citizen engagement requires an empowered citizenry equipped with tools to enable them to participate and effectively monitor government compliance.

2

Effective PIL is necessary but not always sufficient to implement social change and constitutional reform. KI must enhance its internal strategies and work with other advocacy actors to establish mechanisms for effective constitutional implementation and compliance with court orders including civic education, use of access to information and advocacy.

3

Since no single entity can effectively and sustainably address the constitutional and governance challenges facing Kenya, KI must focus on collaborative programming. KI must continue to carefully identify strategic partners, be thoughtful about how it structures its relationships, determine the value that it will add in any potential partnerships, and understand KI's role in its collaborations.

4

The leadership team must strengthen a positive organisational culture, enhance resilience and develop strong internal organizational capacity (including people, policies, practices, structures, systems, and resourcing).

5

It is necessary to maintain a clear balance between the roles of facilitation and direct implementation. Acknowledging that working with local actors enables trust-building, legitimacy, ownership, and sustainability, KI will explore greater opportunities to work WITH and THROUGH partners, while engaging in 'direct implementation' of technical interventions.

6

Constructive engagement with the state, while at the same time holding it to account, is an important strategy for influencing social transformation from within. KI will employ this strategy by engaging state actors as an independent partner but will not hesitate to express disapproval of events, practices, actions, or positions that are unconstitutional.

3.0

STRATEGIC CHOICES, OBJECTIVES, AND INTERVENTIONS

2.1

Conceptual
Framework

2.2

Theory of Change

2.3

Strategic Objectives,
Expected Outcomes,
and Interventions

3.1 Conceptual Framework

Effective public governance is necessary for socio-economic prosperity, social and political inclusion, and ecological sustainability¹⁸. The objectives of sustainable human well-being and dignity cannot be achieved if development is pursued in isolation from social justice, good governance¹⁹ and constitutionalism. Good governance is ordinarily anchored in global and national regulatory instruments, of which the constitution is one.

Kenya has a very comprehensive constitution that covers nearly every aspect of its society. Adherence to the constitution will result in positive socio-economic transformation, including enhanced economic opportunities, respect for human rights, as well as cultural, religious and ethnic inclusion.

The country still has a huge task of entrenching the ethos of constitutionalism and the rule of law, which have come under serious threat from authoritarianism and anti-reform elements. KI will therefore continue investing in robust and vigilant methods to monitor, encourage, and impact the implementation of the constitution and the entrenchment of a culture of constitutionalism.

¹⁸UNDP - Governance for Poverty Eradication and Sustainable Development: Issues in Development Co-operation.

¹⁹UN, 2011. Office of the Commissioner of Human Rights.
<http://www.ohchr.org/EN/Issues/MDG/Pages/MDGIndex.aspx>

3.2 Theory of Change

KI's work is grounded on the principle that full implementation of Kenya's Constitution can address the underlying systems, structures and norms that restrict people's access to rights, opportunities, choices, and agency. KI believes that the proper implementation of the principles, policies, and institutions of the Constitution will contribute immensely to solving many of Kenya's challenges, including corruption, violence, tribalism, and socio-economic exclusion. This will ultimately lead to greater adherence to the rule of law, respect for human rights, transparent and accountable leadership, and, eventually, a more just society.

KI believes that major shortcomings in constitutionalism and constitutional implementation still exist and that it must continue to address them. The core strategies to be employed include public interest litigation, research and publications, technical support, partnerships and community outreach, and access to information and constitutional education.



Our work will be concentrated in five strategic areas:

1 Good Governance;

2 Devolution;

3 Rights and fundamental freedoms;

4 Environmental justice, natural resources governance, and climate change; and

5 Organizational excellence.

3.3 Strategic Objectives, Expected Outcomes, and Interventions

This section presents the objectives, expected outcomes and broad strategic interventions for the five strategic areas of focus of KI. The section does not go into the detailed activities as these will be elaborated upon within the detailed implementation plans that are developed annually.

3.3.1 Good Governance: Rule of Law, Leadership, Integrity, and Accountability

Overview: This strategic area aims to contribute to improved governance, with a focus on rule of law, leadership, integrity, and accountability. The issues that KI will address include preservation and implementation of the Constitution, electoral justice and reforms, effective civic engagement, judicial independence and integrity, anti-corruption and accountability, and compliance with court orders.



To enhance good governance, accountability, and efficiency of public service delivery.

Expected Outcomes

1. Improved legal, policy, and institutional frameworks²⁰.
2. Increased adherence by public officers to leadership and integrity principles contained in the Constitution.
3. Increased public engagement in governance processes.
4. Strengthened state transparency and accountability.
5. Enhanced gender, ethnic and regional inclusion.

Priority Interventions

1. Support the implementation of the Constitution by monitoring and reporting on the extent to which state and non-state actors are complying with constitutional mandates²¹.

²⁰Includes e.g. policing, electoral processes, judicial processes, parastatals, state appointments etc.

²¹KI will necessarily prioritise its interventions in the light of emerging events, the severity of the perceived threat to rights, constitutionalism etc., its own expertise, previous work etc.

2. Safeguard the Constitution by monitoring and analysing proposed constitutional amendments, offering an independent analysis of proposed amendments, and facilitating effective public engagement on constitutional implementation.
3. Periodically conduct and share analyses or research findings on emerging constitutional issues to inform how people think about and implement the Constitution.
4. Help strengthen applicable service delivery systems, including the judiciary²², parliament, parliamentary committees, law schools, and media to ensure that they can more effectively pursue their respective mandates.
5. Contribute to the enforcement of the leadership and integrity chapter of the Constitution by holding public officials accountable and ensuring that they meet the leadership and integrity requirements.
6. Advocate for credible elections, electoral reforms, and electoral justice and working to ensure that electoral bodies fulfil their responsibility to provide reliable, just and fair elections through access to information and public interest litigation.
7. Advocate in a non-partisan manner for political party structures that comply with constitutional requirements for good leadership, inclusion, the two-thirds gender rule, respect for human rights and fundamental freedoms, and the objects and principles of the Constitution.
8. Engage in post-judgment activities to ensure that judgments are implemented. These activities include publicizing and explaining the outcomes of litigation, advocating for the implementation of judgments, filing contempt proceedings, and raising claims in regional or international courts.
9. Utilize constitutional and statutory rights to access to information to ensure transparency and accountability and ensure that the public is well-informed about government activities.

²²Contribute to judicial reforms (for increased independence, transparency, resourcing etc.)

3.3.2 Devolution

Overview: Although devolution is a centrepiece of the Constitution, it is often undermined and is continuously under threat. To address these threats, KI will advocate for the full implementation of devolution, monitor the implementation process, and promote a culture that respects and entrenches devolution. KI will focus on revenue sharing among governments, public service by counties, quality of county laws and policies, and accountability by counties for their obligations under the constitution. The objectives, expected outcomes, and interventions are presented below.



To strengthen and safeguard devolution for responsive democracy, citizen engagement, and enhanced delivery of public services.

Expected Outcomes

1. Increased engagement in, and oversight of, devolved governance processes by citizens, CSOs, and county assemblies.
2. Increased cooperation and cohesion through promoting greater understanding of the relations, powers, and responsibilities among the county governments and between the county and national governments.
3. Enhanced adoption and implementation of laws and policies that address devolution-related issues, including inter-county relations, allocation of responsibility, and revenue sharing.
4. Increased capacity, effectiveness, and independence of county institutions, including county assemblies, executive committees, and county public service boards.
5. Fuller achievement of devolution as envisaged in the Constitution.

²⁰Includes e.g. policing, electoral processes, judicial processes, parastatals, state appointments etc.

Priority Interventions

1. Develop a strategy on how best to engage with county and national governments and use that strategy to extend and deepen engagements with stakeholders at the national- and county-levels²³.
2. Support county governments to develop, improve, and implement applicable laws and policies while ensuring effective citizen engagement and participation.
3. Collaborate with and educate citizens, civil society²⁴, and media so that they can effectively engage government actors to safeguard devolution and advocate for its full implementation.
4. Monitor the activities of Parliament, national government institutions, and independent constitutional commissions to ensure that devolution is fully implemented.
5. Undertake periodic audits on the status of the implementation of devolution.
6. Advocate for the equitable, timely and adequate allocation of resources to the counties in accordance with the Constitution.

²³Includes e.g. CRA, COG, Senators, Judiciary, Parliamentarians, SRC, Auditor General, Controller of Budget, PP Forums etc.

²⁴Also entails working with Social Justice Centres (SJC) / other grassroots actors, social media and community media outlets.

3.3.3 Rights and Fundamental Freedoms

Overview: This strategic area addresses the root causes of social, economic, and political injustices to enable people to enjoy their rights and live-in dignity and harmony. KI aims to enhance the protection of rights and fundamental freedoms, promote effective public participation, improve the protection of HRDs, increase equality and inclusion, and advocate for policy and institutional reforms. KI will promote good governance that is grounded in the needs that are most pressing for people.



To enhance the preservation of human dignity, equality, wellbeing, and self-fulfilment.

Expected Outcomes

1. Enhanced culture of respect, promotion and protection of human rights.
2. Increased awareness of human rights and public demand for human rights protection.
3. Increased access to equitable public services and more equitable distribution of wealth.
4. Strengthened protection of civil-political and ECOSOC rights.

Priority Interventions

1. Mobilize the public to effectively engage state and non-state actors and demand greater fulfilment of ECOSOC rights such as rights to education, water, food, decent housing, health, access to information, consumer protection, and a clean and healthy environment.
2. Enhance the public's participation in civic affairs, including policy formation, legislation, public resource planning, and accountability.
3. Develop the capacity of civil society actors and grassroots movements, such as SJCAs, to protect and demand rights and freedoms. KI will do so by, among

other things, increasing collaboration with civil society actors, sharing resources, integrating programmes, and improving networking amongst key actors.

4. Develop innovative and proactive strategies, including advocacy, civic and corporate engagement, to drive human rights initiatives, litigation strategies, and litigation outcomes.
5. Expand the use of existing and emerging social media for programming, raising awareness on human rights issues, and promoting public participation. KI will do so by using its platforms to analyse human rights compliance, develop and disseminate information, set agenda, shape opinions, and inform public policy.
6. Support actions and mechanisms that enhance the security and wellbeing of HRDs, whistle-blowers, and anti-corruption activists.
7. Collaborate with stakeholders to address underlying drivers of insecurity and to implement security-sector reforms and accountability.

3.3.4 Environmental Justice, Natural Resource Governance and Climate Change Action

Overview: This strategic focus area aims to promote various strategies, including statutory implementation and enforcement and other frameworks, that contribute to a clean and healthy environment and sustainably managed natural resources. KI will do so by engaging in litigation and advocacy to conserve the environment, mitigate the effects of climate change, and promote accountability and compliance with environmental laws, regulations, and policies. KI will prioritize issues that impact marginalized communities and groups.



To contribute to efficient, effective, and accountable management of natural resources, that is sustainable and directly benefits the lives of all.

Expected Outcomes

1. Enhanced accountability for management of natural resources by all stakeholders.
2. Increased awareness on policies and legislation governing management of natural resources.

Priority Interventions

1. Support community mobilization and participation in initiatives that enhance access to rights and development of natural resource sector reforms. This includes enhancing the capacity of communities and CSOs to advocate for environmental justice by facilitating access to information, public participation, and access to justice through public interest litigation.
2. Engage in PIL for effective environmental protection and natural resources management.
3. Support domestication and application of international best practices, protocols, regulations, and institutional frameworks that address climate change adaptation and mitigation at both the national and county levels of government.
4. Collaboratively promote transparency and accountability in the extractives sector in order to advance environmental wellbeing, equitable benefit sharing, conflict resolution, and rights to labour and natural resources.
5. Protect the rights of marginalized communities and groups through education, advocacy, and PIL.
6. Conduct research and share findings on topical issues, including climate change, environmental justice, and effective natural resources management.

3.3.5 Institutional Wellbeing

Overview: This strategic focus area is concerned with KI's internal organizational well-being. It builds on KI's reputation while developing its internal capacity and sustainability. Attention will be paid to the quality of KI's leadership and human resources, visibility and profiling, partnerships and relationship management, institutional and financial resilience, and the quality of internal organizational systems and structures.



To enable Katiba Institute to discharge its mandate effectively and sustainably.

Expected Outcomes

1. KI consistently delivers high-quality services.
2. KI develops a diverse, sustainable, and stable financial resource portfolio.
3. KI employs strong systems of internal controls, oversight, and quality assurance.
4. KI attracts and retains high-quality staff.
5. KI increases its visibility as a leader in the fields of public interest litigation, constitutional advocacy, and research on constitutionalism.
6. KI consolidates its position as a go-to knowledge repository on constitutional matters.

Organizational Priorities

1. Undertake detailed analyses of the funding environment to develop a resource mobilization strategy and business continuity plan to enhance KI's institutional stability and continuity.
2. Enhance donors' understanding of KI's work and value-add, and how these align with the donors' goals.

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3. Adopt adaptive management strategies to strengthen KI's knowledge management practice, including research capacity, promote innovation and creativity, and implement key lessons learned, best practices, and innovative models. Also strengthen system for record keeping and retrieval.
 4. Market and communicate KI's work.
 5. Strengthen organizational systems and structures and internal assurance and risk management mechanisms (e.g., develop a risk register and periodically undertake a risk analysis and assurance).
 6. Invest in more robust ICT systems, including software, equipment, and training to support greater visibility, efficiency, reach, and internal collaboration.
 7. Continuously review and strengthen KI's systems to improve staff care and wellbeing, quality of work environment, and staff capacity through career development and human resource development.
 8. Build staff expertise on technical and strategic areas such as climate change and the environment.
 9. Recruit board members with diverse and relevant skillsets and professional backgrounds.
 10. Establish clear mechanisms for transition management and succession planning.

4.0

IMPLEMENTATIONAL MODALITIES

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Monitoring, Evaluation, Research, and Learning

4.2

Organizational Structure

4.1 Monitoring, Evaluation, Research, and Learning

KI considers Monitoring, Evaluation, Research and Learning (MERL) as a critical management tool for effective program design, monitoring and evaluation. KI recognizes that MERL processes improve the overall organizational performance by promoting greater transparency and accountability, effective resource allocation, and encouraging learning and data-driven decision-making.

KI has thus developed a theory of change (ToC) to guide the delivery, monitoring, and evaluation of the strategic actions and result indicators that have been set out in this strategic plan. The ToC will be complemented by several implementation instruments such as annual work plans, M&E Plans, programme budgets, individual programme log frames/result frameworks that will enable KI to effectively implement and institutionalize MERL. These tools will inform periodic and systematic collection, analysis, reporting, and dissemination of progress data on the result indicators. The MERL framework will be updated to suit the operational context as implementation progresses.

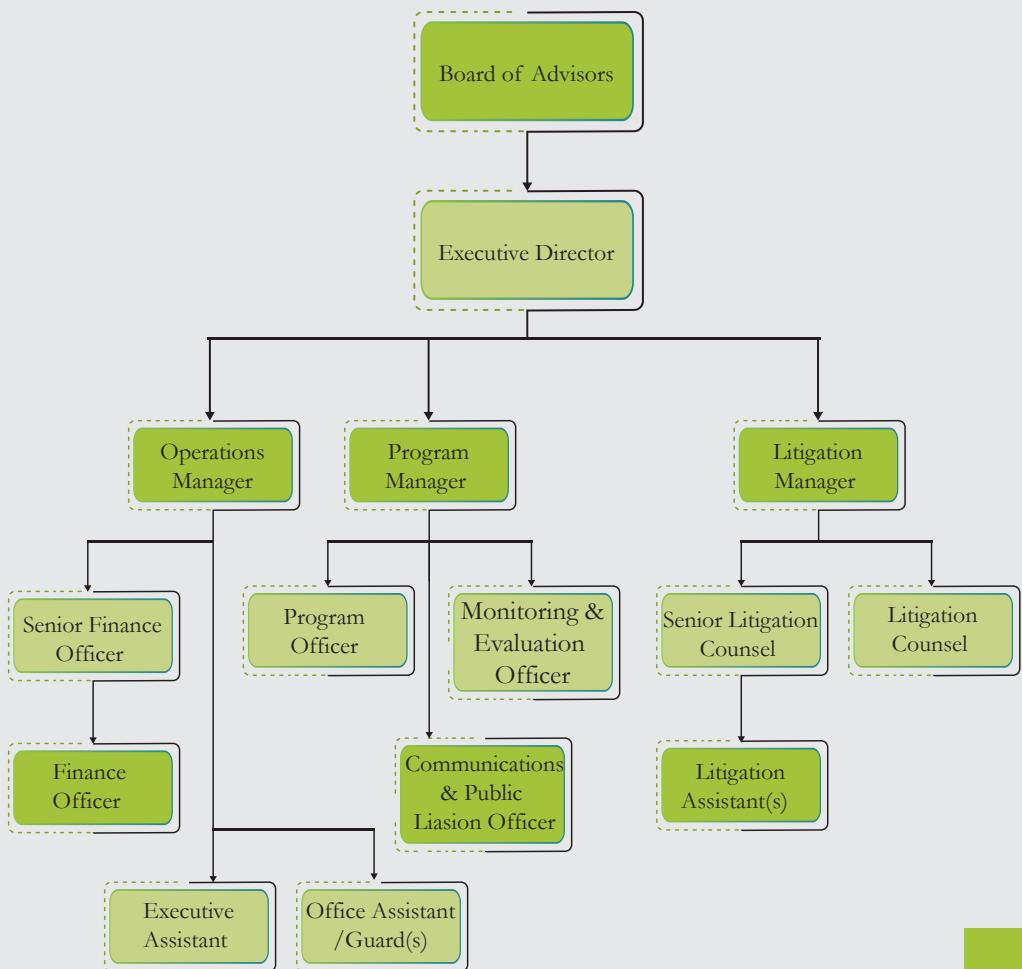
KI will also further develop its institutional MERL capacity both in terms of resourcing and quality of systems. As part of strengthening capacity, KI will develop the KI Handbook on Monitoring and Evaluation for Results to bolster results oriented MERL function. While specific staff will be responsible for overall MERL coordination, all staff will be expected to implement MERL within their respective departments.

KI will use the information from monitoring and evaluation processes to review the sustainability of its interventions and draw institutional lessons from the recommendations and findings.

KI will carry out two comprehensive evaluations of the strategic plan and KI's implementation of it—one at the midpoint and one at the end of the plan period. KI will also conduct annual internal self-assessments to bridge any perceived gaps in the implementation of the strategy. These evaluations and internal assessments will be used to measure the strategy's implementation, relevance, effectiveness, and impact. Additionally, the evaluations and continuous monitoring processes will be used to identify emerging developments that need to be onboarded. The same will be discussed during institutional reflections, and decisions on how to handle the same made. KI will further use the information from monitoring and evaluation processes to review the sustainability of its interventions and draw institutional lessons from the recommendations and findings.

Finally, KI will regularly monitor its processes to assess compliance with policies, regulations, and procedures. Such reviews include periodic organizational assessments and audits. A feedback mechanism will be established and used to improve the MERL system, enable institutional improvements, and identify corrective actions that need to be taken.

4.2 Organizational Structure



5.0

ANNEXES (OPERATIONAL MATRICES)

5.1 Budget Overview and Financing

Institutional Budget for Katiba Institute: January 2020 - December 2024

Line Item	Budget Year						Total Amount Us\$
	Year 1 (2020) Us\$	Year 2 (2021) Us\$	Year 3 (2022) Us\$	Year 4 (2023) Us\$	Year 5 (2024) Us\$		
1. Personnel Costs							
Staff Salaries	474,323	545,471	627,292	721,386	829,594	3,198,066	
Other Staff Support Costs							
Staff Medical Insurance	46,414	53,376	61,382	70,590	81,178	312,941	
Pension Fund	864	5,190	5,969	6,864	7,893	26,780	
Gla/Wiba	3,500	4,025	4,629	5,323	6,122	23,598	
Nita	10	12	13	15	17	67	
Professional Subscription & Staff Trainings	2,000	2,300	2,645	3,042	3,498	13,485	
Pil Staff Training/Cle & Lsk Licences	2,190	2,519	2,896	3,332	3,830	14,766	
Sub-total	529,301	612,892	704,826	810,550	932,133	3,589,702	
2. Project Costs							
Public Interest Litigation	70,500	77,550	85,305	93,836	103,219	430,410	
Research & Documentation	63,300	68,530	75,383	82,921	91,213	380,348	
Address To Gaps In Constitutionalism	50,000	55,000	60,500	66,550	73,205	305,255	
Access To Information (Workshops, Strategy Meeting & Consultants)	43,000	47,300	52,030	57,333	62,956	362,519	
Capacity Building & Community Outreach	27,700	30,470	33,517	36,869	40,556	169,111	
Support For Human Right Defenders	88,000	96,800	106,480	117,128	128,841	537,249	
Media & Technological Engagements	30,500	33,550	36,905	40,596	44,655	186,206	
Project Iec/Branding Materials	5,500	6,050	6,655	7,321	8,053	33,578	
Project Review & In-House Meetings	21,597	23,757	26,132	28,746	31,620	131,852	
Sub-Total	399,097	439,007	482,907	531,198	584,318	2,436,527	
3. Transport And Communication For Staff							
Communication Costs	1,200	13,200	14,500	15,972	17,569	73,261	
Office Taxi Services	30,000	33,000	36,300	39,930	43,923	183,153	
Flights To Attend Meetings	9,600	10,560	11,616	12,778	14,055	58,609	
Sub-Total	51,600	56,760	62,436	68,680	75,548	315,023	

Line Item	Budget Year					
	Year 1 (2020) Us\$	Year 2 (2021) Us\$	Year 3 (2022) Us\$	Year 4 (2023) Us\$	Year 5 (2024) Us\$	Total Amount Us\$
4. Project Iec/Branding Materials						
Printing Of Banners, Flyers	5,000	5,500	6,050	6,655	7,321	30,526
Sub-Total	5,000	5,500	6,050	6,655	7,321	30,526
5. Administrative Overheads						
Office Space Costs	36,000	39,600	43,560	47,916	52,708	219,784
Office Security	3,000	3,300	3,630	639	4,392	18,315
Web Development, Maintenance & Hosting, M&E System	36,000	39,600	43,560	47,916	52,708	219,784
Postage	480	528	581	639	703	2,930
Office Utilities	4,596	5,056	5,561	6,117	6,729	28,059
Electricity	1,800	1,980	2,178	2,396	2,635	10,989
Water	720	792	871	958	1,054	4,396
Office Telephone Bill	2,400	2,640	2,904	3,194	3,514	14,652
Repairs & Maintenance, It Support	32,400	35,640	39,204	43,124	47,437	197,805
Stationery (Printing Papers, Letter Heads, Pens Etc.)	3,600	3,960	4,356	4,792	5,271	21,978
Institutional Audit Cost	5,500	6,050	6,655	7,321	8,053	33,578
Bank Charges	720	792	871	958	1,054	4,396
Kra &Company Annual Returns	600	660	726	799	878	3,663
Local Travel	10,500	11,550	12,705	13,976	15,373	64,104
General/ All Risks Insurance	1,500	1,650	1,815	1,997	2,196	9,158
Sub-Total	139,816	153,798	169,177	186,095	204,705	853,591
6. Capital Costs						
Office Furniture And Equipment (Office Desks, Chairs, Filling	6,000	5,000	1,500	2,500	3,000	1,800
Virtual Studio (Camera & Other Accessories)	6,500	-	2,000	-	-	8,500
Office Printer	-	4,500	-	4,500	-	9,000
Laptops (4pieces/Year)	6,000	6,600	7,260	7,986	8,785	36,631
Sub-Total	18,500	16,100	10,760	14,986	11,758	72,131
Grand Total	1,143,314	1,284,057	1,436,157	1,618,164	1,815,808	7,297,499



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