

World Directory of Minorities and Indigenous Peoples - Kenya

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Minorities and indigenous peoples

Main languages: Swahili, English, local languages

Main religions: Christianity (Protestant 47.4 per cent, Roman Catholic 23.3 per cent, other Christians 0.19 per cent), Islam (11 per cent), indigenous beliefs (0.10 per cent), Hindu (0.003 per cent), other religions (0.01 per cent). Source: Kenya National Bureau of Statistics (2009).

Minority groups: Aweer (Boni), 7,620, Abasuba (139,271), Kuria (260,401), Wlilwana (16,803), Nubi (15,4630), Samburu (237,179), Taita (273,519), Taveta (20,828), Muslims 4.3 million, Luo 4.0 million, Kamba 3.9 million, Kalenjin (a collective term encompassing diverse indigenous peoples including the Kipsigis, Endorois, Tugen, Pokot and Sabaot) 4.97 million (12 per cent), Kisii 2.2 million, Meru 2.2 million, Asians, Europeans and Arabs 350,000 (1 per cent), Somalis 420,000, Ogiek 78,691 (disputed by Ogiek community groups), Maasai (841,622), Dahalo (2,398).

Kenya is a country of great ethnic, linguistic, cultural and religious diversity. Ethnic/national minorities, such as the Nubians and Somalis, are not recognized as such by the Kenyan government and have problems accessing citizenship documents. In recent years political conflict on ethnic lines has increased dramatically, exacerbated by the combination of divisive politicians and economic decline. Nevertheless, ethnic categorizations are complex and sometimes overlapping. Such linguistic minorities as the Terik, Sengwer and Suba are challenged by the near-extinction of their languages. Agriculturalists and pastoralists often have competing claims to land, and nomadic

pastoralists are in ceaseless conflict with the authorities, most of whom come from farming tribes. Although the relationship has generally been one of tolerance, divisions between Christians and Muslims are of growing significance.

No ethnic grouping is numerically dominant, and while a few groups have had opportunities at political power with its associated economic benefits, the Kikuyu, who make up 22 per cent of the population, have tended to dominate politics in the post-independence era. Some groups have never held political power. Competition for power and exclusion from it on an ethnic basis has been a major source of tension in Kenya. Particularly vulnerable minorities include Muslims, such as nomadic pastoralists as Somalis and Maasai, and hunter-gatherers.

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Current issues

Land rights have long been an issue in Kenya, particularly affecting its minorities and indigenous peoples. However, Kenya in 2016 achieved a significant milestone in relation to implementation of its progressive 2010 Constitution -- passage of the Community Land Act, which operationalizes Article 63. Article 63 of Kenya's Constitution lays out the types of land registration available in the country, including private, public and community lands. During Kenya's long constitutional drafting process, minority and indigenous communities fought for inclusion of Article 63, which established community land, a new category of landholding giving communities power to control land in which they share a common interest. The new law makes clear that customary land rights are equal in status to any other form of land holding.

Some estimate that as much as 68 per cent of Kenya's land could be designated as community lands. But the law to adjudicate these lands and put them under the control of communities includes several provisions that are of concern. Moreover, the law will not truly be operational until regulations and several other steps are completed. Until these are completed, all community lands and monies derived from them are held in trust by the newly established county governments on behalf of communities. The law establishes multiple steps before communities can actually start registering lands in addition to creation of regulations, including the establishment of a jointly agreed adjudication process between the Ministry of Lands and Kenya's 47 county governments (required within three years), the appointment of a community land registrar, and communities organizing themselves to become registered under the law. Once these steps are finalized the actual process of registering lands to be held by communities could take many years, and until such time, communities will see their lands managed by the relevant county government -- or in the case of community lands that cross county boundaries, by multiple county governments at once.

The passage of the Community Land Act has been long awaited by many of Kenya's indigenous peoples, including forest peoples such as Ogiek and Sengwer and pastoralists such as Endorois, Turkana and Maasai. Kenya's Ogiek are a traditional hunter gatherer community whose communal lands stretch from the slopes of Mt. Elgon on the Uganda border to the highland Mau forest, one of East Africa's most critical watersheds. For decades, Ogiek have been fighting to maintain access to

their homes, hunting and gathering grounds, as well as sacred sites in the forest and to protect their lands from the exploitation that is devastating Kenya's forest cover. Despite rulings in their favor both in domestic courts and African regional human rights bodies, Ogiek continue to experience evictions and harassment on their lands. In August 2016, dozens of families from the Mt. Elgon Ogiek community were forcibly evicted by Kenya Forest Service rangers. Ogiek families living in the Mau forest are regularly evicted and harassed by the Kenya Forest Service, local politicians, police and other communities attempting to move into the forest. However, following a protracted legal case undertaken with the support of Minority Rights Group, May 2017 saw a landmark ruling by the African Court on Human and People's Rights in favour of the Ogiek's customary land rights.

Sengwer forest people living in the Embobut forest have also experienced successive waves of evictions for many years. Recent large scale projects from the World Bank and the European Union designed to protect Kenya's natural water towers, however, have raised the stakes. At the beginning of December 2016, the Kenyan government announced that all Sengwer would be evicted by the end of the year.

Kenya's pastoralist communities also have been advocating for the Community Land Act as a tool to help them protect their traditional, communally held territories, especially grazing lands. The Endorois, Maasai and Turkana all have contested the taking of their lands for large scale development and conservation projects -- a national reserve and ruby mining in the case of the Endorois; national parks and hydrothermal energy production in the case of the Maasai; and oil and wind power production in the case of the Turkana. The Endorois community continues to struggle to ensure implementation by the government of a 2009 decision of the African Commission on Human and Peoples' Rights that declared Kenya's actions in relation to their traditional lands around Lake Bogoria a violation of Kenya's international and domestic legal obligations. The Commission ordered reparations, consultation, return of access to lands, and benefit sharing but implementation of the decision has been painfully slow, with only incremental improvements in the situation over the years.

The Community Land Act also includes important provisions demanding gender equality and establishing non-discrimination as a critical guiding principle for the law. Indeed, final registration of community land requires consideration of the equal treatment of women throughout the process. This provision has the potential to provide important benefits for Kenya's indigenous women who experience double discrimination. The pressures on indigenous and minority groups in Kenya often fall most heavily on women in communities that are experiencing evictions, loss of livelihoods, lack of access to services and other human rights violations. Women from indigenous and minority communities across Kenya have reported over the years that they experience unique abuses when their communities come into conflict with the state. These violations include sexual violence, gender-specific threats, use of women to bait or manipulate men in the community, destruction of women's unique property such as household goods, loss of access to gender-specific ritual sites, loss of access to medicinal herbs, and loss of opportunity to transmit cultural knowledge.

A 2016 report that focused on the experiences of Sengwer women during successive waves of evictions reported that Sengwer women were being arrested in increasing numbers, a tactic used by security forces to extract bail from male members of the community. Moreover, Sengwer women are struggling to maintain their family livelihoods and cultural life. Women and children experienced health problems because of lack of access to forest resources, family cohesion has been undermined by the constant cycles of eviction, women had lost access to burial sites of their

ancestors, as well as to ritual caves. In addition to this, Sengwer women report that they often are insufficiently involved in the advocacy efforts to protect their community -- because of traditional patriarchy they are excluded from decision making and often lack information about the legal and human rights campaigns being led by male community members.

Kenya also has a significant Somali minority population, including both Kenyan citizens of Somali descent as well as Somali refugees. The growing threat of terrorism inside Kenya from the Somali extremist organisation, al-Shabaab, has led to less and less tolerance of Somali refugees by the Kenyan public and the Kenyan government. In 2016 in particular, changing Kenyan government policy toward Somali refugees led to major efforts to close refugee camps with Kenya and to repatriate refugees back to Somalia. The government of Kenya has repeatedly announced deadlines for closure of the largest refugee camp in the country, Dadaab, and has begun a repatriation program. The current deadline for the closure of Dadaab is May 2017, but many experts agree that the deadline is unreasonable. *Prima facie* status for Somali refugees -- a policy that had accepted that Somalis fleeing conflict were automatically considered in need of protection within the internationally accepted definition of a refugee -- was revoked in April 2016. By the end of 2016 more than 25,000 refugees had been repatriated to Somalia.

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Background

Environment

Kenya lies on the Indian Ocean in eastern Africa. It borders Somalia, South Sudan, and Ethiopia in the north, Uganda in the west, and Tanzania in the south and south-west. Lowland plains rise to central Kenya's fertile highlands and snow-capped mountains. Much of the northern half of the country is arid and semi-arid rangelands. Kenya's many national parks and reserves protect the country's biodiversity and are a major attraction for international tourists.

History

Kenya gained independence from British colonial rule in 1963. Many of Kenya's ethnic communities resisted colonial oppression throughout various periods of British rule -- well known resistance movements emerged from the Maasai, Nandi, and Kikuyu communities. Colonialism in Kenya undermined the territorial integrity of most of Kenya's ethnic groups, and solidified ethnic distinctions for the purpose of divide and rule. Land was appropriated by colonial powers through military conquest and administrative fiat, generally without community consent.

Jomo Kenyatta, the country's first President, had been a major figure in Kenya's independence movement and led the country until his death in 1978. From 1969 to 1991 Kenya was effectively run as a one-party state. Multiparty politics increased opportunities for mobilization on ethnic and religious lines, and politicized ethnicity has frequently served narrow groups of officeholders and elites receiving their patronage. Growing international pressure for reform led to the reintroduction

of multiparty politics, culminating in presidential and parliamentary elections in December 1992. Daniel arap Moi, Kenyatta's vice-president and President since 1978, won with 36 per cent of the vote over a divided opposition; his KANU party won a narrow majority of seats in Parliament. Multiparty politics increased opportunities for mobilization on ethnic and religious lines. The 'ethnic card' as a tool for voter mobilization was then difficult to remove. Politicized ethnicity has usually served narrow groups of officeholders and elites receiving their patronage.

Rampant corruption, a stalling economy, and a loss of international support fuelled resentment against Moi, and he decided not to contest 2002 elections, while at the same time Kenya's fractured opposition united behind one candidate.

Daniel arap Moi's 24-year rule and KANU's four decades in power ended in December 2002 when opposition presidential candidate Mwai Kibaki, a Kikuyu, won a landslide victory over KANU rival Uhuru Kenyatta -- Moi's chosen successor and the son of independence leader Jomo Kenyatta. Kibaki, who had served as Moi's vice president from 1978 to 1988, promised to tackle corruption, and in 2003 introduced a bill proposing an anti-corruption commission. The International Monetary Fund (IMF) resumed lending to Kenya after a three-year gap. However, in December 2003 the government granted former president Moi immunity from prosecution, and the promised anti-corruption drive had not materialized. In 2003 Kibaki's government also launched a crackdown on independent newspapers, a move that shocked Kenyans accustomed to a relatively free media. In February 2005, diplomats claimed that under Kibaki, corruption had cost Kenya US\$1 billion. The Kibaki administration has been roundly criticized for tribalism and cronyism, including accusations that Kibaki has heavily favoured his Mt Kenya region in government appointments.

2007 election crisis

Amid widespread allegations of rigging, President Kibaki and his Party of National Unity claimed victory in the closely-fought 2007 elections -- an outcome vehemently disputed by the opposition Orange Democratic Movement. The fault-lines in Kenyan society were exposed, when competing political interests over-lapped with ethnic differences. President Kibaki and his close associates are Kikuyu, while his main rival Raila Odinga is a Luo. Luos and allied communities from Western Kenya have long seen themselves as being denied the leadership of the country when Odinga's father was sidelined by Jomo Kenyatta's administration. The post-election violence in Kenya was the worst the country had witnessed, leading to hundreds of deaths, widespread sexual violence against women and men, property destruction, and approximately 600,000 people displaced over the several weeks of conflict. Some of the worst violence and displacement took place in Nairobi's informal settlements and in the Rift Valley, where long-standing grievances over land erupted into ethnically-targeted attacks.

Under intense international pressure, Kibaki and Odinga agreed to a power-sharing deal which kept Kibaki as President and installed Odinga as Prime Minister. Six Kenyans were charged by the International Criminal Court (ICC) in connection with crimes during the post-election violence of 2007-08, but all of the cases have either been dismissed or have collapsed. No one has ever been charged domestically in Kenya for crimes committed during the 2007-08 crisis. Kenya established a Truth, Justice and Reconciliation Commission (TJRC) in 2010 to document human rights violations during the 2007-08 violence as well as throughout Kenya's post-independence history. The TJRC issued its report in 2013, providing extensive documentation of Kenya's long history of ethno-

political conflicts and underlying disputes over land rights and marginalization of many ethnic communities.

Constitutional reform and further elections

After a many decades-long struggle for constitutional reform, Kenyans voted in a constitutional referendum in 2010 to adopt a new Constitution that ushered in significant reforms. Elections in 2013 were the first held under the new Constitution and established an entirely new system of devolved governance in Kenya, creating 47 new counties with their own governments. The winning candidates for President and Vice-President at the national level, Uhuru Kenyatta and William Ruto, had been charged by the ICC for their role in the 2007-08 post-election violence and ran for election with their cases pending at the Court. However, the cases collapsed mid-way through their terms in office, though they were not formally acquitted.

Kenyatta and Ruto ran for re-election in August 2017, facing Odinga with Kalonzo Musyoka as his running mate. Kenyatta and Ruto won, although the result was disputed by Odinga. At least 24 people were killed in protests immediately after the election results were announced.

Governance

The Republic of Kenya is a democracy operating under a reformed Constitution adopted in 2010. The Constitution established a presidential system of government at the national level, with a bi-cameral parliament consisting of the Senate and the National Assembly. The constitution also created 47 county governments, each with its own Governor and County Assembly. Powers of government are shared between the national and county levels of, with certain key service delivery functions being devolved to the county level while most power to raise revenue and set national policy remains at the national level.

The President, members of the Senate and National Assembly, Governors, and members of County Assemblies are elected for five year terms in a winner-take-all system. Kenya's Constitution requires that no more than 2/3 of any elected or appointed government body can be of the same sex, effectively creating a quota system for women. Each county also elects one 'women's representative' to the National Assembly. Certain appointed seats in Parliament also are reserved for persons with disabilities. Kenya has multiple political parties, many of which are aligned with Kenya's larger ethnic groups. During election periods, political parties generally merge to form large alliances which consolidate the numbers necessary to win an electoral majority.

Kenya has an independent judiciary consisting of a Supreme Court, Court of Appeal, regional High Courts, as well as subordinate courts including magistrate courts, *khadis* courts (which regulate affairs of Kenya's Muslim community), and military courts. Kenya's judiciary also includes specialized tribunals for labor disputes and land and environment cases.

Kenya's Constitution also established several independent commissions, including the Kenya National Commission on Human Rights, the National Gender and Equality Commission, the National Cohesion and Integration Commission, along with the Office of the Ombudsman and the Commission on Administrative Justice.

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 - [Somali and other nomads](#)
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Contacts

General

Centre for Minority Rights and Development (CEMIRIDE)

Indigenous Fisher Peoples Network (IFP)

Website: <https://www.facebook.com/Indigenous-Fisher-Peoples-Network-143206105692911/>

National Council of Women in Kenya

Christian

All Africa Conference of Churches/World Council of Churches

Website: <http://www.aacc-ceta.org/>

Endorois

Endorois Welfare Council

Muslim

Muslims for Human Rights (operates as a program of the Kenya Human Rights Commission)

Website: <http://www.khrc.or.ke/>

Ogiek

Ogiek Peoples Development Program

Website: <http://www.ogiekpeoples.org/>

Pastoralist

Maasai Education Discovery

Website: <https://www.facebook.com/Maasai-Education-Discovery-288454917832473/>

Hunter-Gatherers

Hunter Gatherer Forum (HUGAFO)

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