

## Kenya Overview

- [Environment](#)
- [Peoples](#)
- [History](#)
- [Governance](#)
- [Current state of minorities and indigenous peoples](#)

## Environment

Kenya lies on the Indian Ocean in eastern Africa. It borders [Somalia](#) 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. The presence of big game make Kenya's savannahs a major attraction for international tourists.

## Peoples

Main languages: Swahili, English, local languages

Main religions: Christianity (Protestant 47.4%, Roman Catholic 23.3%, other Christians 0.19% ), Islam ( 11%), Indigenous beliefs (0.10%), Hindu (0.003%), other religions (0.01%),No Religion (0.02%)  
Kenya National Bureau of Statistics (Kenya National Bureau of Statistics 2009).

Minority groups include: 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%), Kisii 2.2 million, Meru 2.2 million, Asians, Europeans and Arabs 350,000 (1%), Somalis 420,000, Ogiek 78,691 ( this is disputed by OPDP), Maasai (841,622), Dahalo ( 2398).

The countries total population is 38.6 million,(Kenya National Bureau of Statistics 2009)  
(For more details visit: [http://www.knbs.or.ke/detailed\\_population\\_results.php](http://www.knbs.or.ke/detailed_population_results.php) or <http://www.knbs.or.ke/censusethnic.php>).

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% 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 nomadic pastoralists as Somalis and Maasai, and such [hunter-gatherers](#) as Ogiek and Aweer.

[^top](#)

## History

Colonial Kenya saw large-scale expropriation of agricultural land for European settlement in what is now the Rift Valley province - mostly land occupied at the time by pastoralists. Some of this land was subsequently settled by people from agriculturalist groups who had been recruited to work on the white farms, later acquiring some land themselves. Pastoralist groups played a less important role in the independence struggle and subsequent settlement.

Arab traders and slavers profoundly influenced East Africa, leading to the creation of comparatively well-educated Swahili-speaking communities in coastal regions as well as the conversion of a quarter of the population to Islam. Declining political influence, combined with the impact of Islamic politics elsewhere, has led to growing resentment among many Kenyan Muslims. Kenyans of South Asian origin have also attracted hostility as a result of their commercial dominance. This has been aggravated by the wish of some Asian Kenyans not to mix socially with African Kenyans, and the overt racism of some.

Pastoralists in the north of the country have long faced government neglect, while Somali pastoralists in the north-east have long been viewed with suspicion if not outright hostility by the authorities due to long-standing disputes between Kenya and Somalia. Kenya shares the concern of other neighbours of Somalia that aspirations to unify Somali populations in a 'Greater Somalia' could lead to claims on its territory in the north and east.

As the largest and geographically most central ethnic group in Kenya, Kikuyu had a dominant role in pre-and immediately post-independence politics. By contrast in the late colonial period many pastoralists (who include some Kalenjin tribes and Maasai), among various other peoples-including elements of the Kikuyu-were allied to or co-opted by the British authorities in an attempt to counteract the radical nationalism represented by the Mau Mau insurgency.

Fishing peoples were underrepresented in post-independence Kenya, despite the prominence of some politicians from the fishing Luo people. With little say in discussions of development issues, traditional fishing communities fell into deepening poverty as the government pursued unsustainable fishing policies.

[^top](#)

## Governance

Jomo Kenyatta, the country's first President, consolidated the Kikuyu position in government and such institutions as the army and police, while also maintaining an ethnic balance in his administration. However, politicians from pastoralist ethnic groups came to exert a significant role within the ruling Kenya African National Union (KANU), not least through the growing patronage wielded by Kenyatta's deputy and successor, Daniel arap Moi - a member of the small Kalejin tribe.

From 1969 to 1991 Kenya was effectively run as a one-party state. Growing international pressure for reform led to the reintroduction of multiparty politics, culminating in presidential and parliamentary elections in December 1992. Daniel arap Moi, 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, while the peoples for whose ethnic interests they campaigned have remained mired in poverty.

Violent conflict in western Kenya between settled agricultural communities of Kikuyu, Luhya and Luo people and pastoralist Kalenjin and Maasai has focused on land disputes. Many Kikuyu settled in these regions early in the century, acting as a labour reserve for white farms, though unable formally to own land until the immediate pre-independence period. In the 1990s, according to most independent observers, over 200,000 people, the great majority Kikuyu, were displaced from their homes in the Rift Valley province and other parts of western Kenya. As many as two thousand were killed. Characteristically the perpetrators were organized bands of Kalenjin or Maasai 'warriors' - young men armed with bows and arrows or machetes, often wearing improvised uniforms - whose activities went unhindered by the authorities. In most cases the authorities conspicuously failed to bring the aggressors to justice. There were also reprisal attacks on Kalenjin and Maasai.

The violence began in the period preceding the 1992 election and escalated after it, as did the extent of patronage on ethnic lines. 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. Worse, it appeared that Kibaki's hands-off approach to government was tempting his ministers to follow in Moi's footsteps. 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 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. The Luos – making up 12 % of the Kenyan population – have long seen themselves as being denied the leadership of the country. Kikuyus making up 21 % of the population, have dominated the country politically and economically since independence, and have traditionally been the target of widespread resentment. Alarming, post-election anger has mutated into the settling of old scores.

In the Rift Valley, historic grievances against land allocations led to the mass targeting of Kikuyu by the Kalenjin (around 11 % of the population), who regard the land in the Rift Valley as theirs. In Western Kenya, the Kikuyu also found itself under attack, with many fleeing for fear of their lives, whilst dozens of Luo in the main Western Kenya town of Kisumu were shot dead by the Kenyan security services, and women – including elderly ones – were raped, again allegedly by security forces. The Kikuyu criminal militia, Mungiki, struck back around the town of Naivasha in the Rift Valley, targeting ethnic groups believed to support the Opposition. The Ogiek – a hunter-gatherer indigenous group - living close to Lake Nakuru, were attacked by gangs of Kikuyus from neighbouring villages, backed up by armed Kikuyu police officers.

In February, under intense international pressure, Kibaki and Odinga agreed to a power-sharing deal, but tumultuous talks on the formation of a joint cabinet lasted into April. The result was the largest cabinet in Kenya's history – one that nicely served the interests of elites on both sides of the conflict. By the time the power-sharing deal had been struck on the 28th February 2008, bringing together the ODM and the PNU, approximately 1500 Kenyans were killed, over 400,000 displaced and an unknown number of women had been raped. However, deep scars remained among the people of the Rift Valley in particular.

Six Kenyans were charged by ICC in connection with crimes during the election violence of 2007/8. Four Kenyans are due expected to stand accused for crimes against humanity at The Hague. Interestingly two of the accused are Presidential candidates. The two are also in serious negotiation to contest jointly as running mates. Some Kenyan have gone to High Court to stop the two from contesting citing violation of Chapter Six of the Constitution on leadership and integrity. Uhuru Kenyatta is from the Kikuyu community and William Ruto from the Nandi (a sub-group of the larger Kalenjin group). Some Western Governments have already sent a warning that should Kenyans elect suspects due to appear at The Hague to the Presidency then it will not be business as usual- Kenya risks isolation by the international community.

## **Constitutional reform**

The 20-year-long debate over constitutional reform came to an end with the adoption of the new Constitution in August 2010. Endorsed by 67 per cent of Kenyans, it is expected to bring significant social changes and political and legal reforms, promote democracy help alleviate tribal differences that have brought violence to the country. The Constitution is said to be one of the most progressive in the world with a well elaborated Bill of Rights and a separation of power of the three arms of government. It provides for the devolution of resources and services through county governments. For the first time the Constitution mentions minority and marginalized communities and it contains several articles to promote and protect the rights of these communities. However, time will tell how effectively these provisions will be implemented. The real test of implementation will be the forthcoming general elections scheduled for March, 2013.

[^top](#)

## **Current state of minorities and indigenous peoples**

The Ogiek – a forest-dwelling people who live mainly in and around the Mau Forest in the Rift Valley – reported the displacement of 15 families and four deaths during the election upheaval. Others highlight the economic impact the violence has had on their fragile livelihoods. For example, the Fisher People's Network, which represents the Nyala ethnic community, reports that fishing activity in Lake Victoria all but collapsed during the period of unrest, while the cattle-herding Endorois based around Lake Bogoria report that selling cattle to the townspeople of the Rift Valley almost ground to a halt. At least three Endorois were killed, after being caught up in the violence around the town of Nakuru.

The peace-deal brokered by Kofi Annan, set in train a number of reform processes which may potentially help minorities and indigenous peoples.

One important process was the establishment of a Truth, Justice and Reconciliation Commission (TJRC). The Act which established the TJRC had several minority-friendly provisions, including the mandate to inquire into 'the reality or otherwise of perceived economic marginalization of communities and to make recommendations on how to address the marginalization'. However, some minorities and indigenous peoples are disappointed that it only examines post-independence violations since 1963. The Maasai point out that they lost control of their lands under the colonial administration. The Commission has been trapped in controversies surrounding the Chair. As of 2012, the Commission has fulfilled part of its mandate, but it has more work to do. Members are negotiating for an extension of their term and parliament is not pleased with its performance.

Reform of Kenya's land laws have been broadly welcomed by the minority and indigenous communities. Some of the deep social and economic inequalities experienced by Kenyans have their roots in inequitable land distribution - as does the violence experienced in the Rift Valley after the 2007 election. Land distribution was skewed in favour of the Kikuyus, both prior to independence and during Kenyatta's tenure. This historic fact fuelled the 2007/2008 election violence against the Kikuyu in the Rift Valley. However, the land problems are also due to the clutter of poorly administered existing laws – a mix of British, Indian and customary rules – which have opened the door to land-grabbing by well-connected individuals, and made it extremely difficult for poorer Kenyans to obtain title to land.

Kenya's indigenous peoples, in particular, have suffered from sharp violations of their land rights. In his 2007 report, the UN Special Rapporteur on Indigenous Issues, Rodolfo Stavenhagen, painted a bleak picture of the situation of Kenya's pastoralist, hunter-gatherer and forest tribes. Excluded from economic and political power, these peoples have seen their land seized and resources plundered, making their way of life ever more untenable. T

The National Land Policy (NLP) of 2009, drawn up after extensive public consultation, contains important provisions to help minorities and indigenous peoples. Indeed, it includes a special section on minorities, pastoralist groups and coastal peoples. Some of the policy's provisions include: the establishment of a legislative framework to secure the rights of minorities and indigenous peoples; to convert government-owned land on the Coast into community land; and crucially, to recognize pastoralism as a legitimate land use and production system. The NLP informed relevant chapters of the 2010 Constitution of Kenya.

Perhaps predictably, the proposals are being met by fierce opposition. The Kenya Landowners Association - which represents the country's bigger landowners - says the reforms encourage environmental degradation, are against free enterprise and will legitimize Zimbabwe-style land seizures. Catherine Gatundu of the NGO Kenya Land Alliance, which helped to craft the policy, is in no doubt that a tough battle lies ahead. 'They [the landowners] want their existing rights protected...It will be a war between those with money and the people. It is hoped that the 2010 Constitution will protect the land rights of minority and indigenous communities and their efforts to secure them.

The coalition government has – however – delivered some help to the pastoralist communities of Northern Kenya and the Fishing communities, through the establishment of two new ministries. The hope is that the Ministry of Northern Kenya and Arid Lands, and the Ministry of Fisheries has focused resources and planning efforts on these neglected communities. However, problems have arisen over the funding of these two new government departments. Both MPs from the Northern Kenya and minority activists from the Lake Victoria region of Western Kenya condemned the allocation of funds in the

annual budget, as woefully inadequate given the scale of the needs involved. But these ministries may no longer exist after the next general election in 2013, as the number of ministries will be reduced and so the gains made may be lost.

### **Parliamentary representation after the 2007 poll**

Pastoralists from Northern Kenya benefited too from the allocation of 'special interest' seats reserved under the Kenyan Constitution. There are twelve nominated seats in Kenyan parliament – of which representatives from the pastoralist and/or muslim minority communities in the North and North-East were given half. Women, in particular, benefited with the PNU, KANU and ODM all nominating one female MP. Although small, this represented a tripling of numbers. In the last parliament, only one Muslim woman MP was nominated. The slow rate of advance, however, still cannot disguise the lamentable state of female representation in Kenya. Of the three East African countries, Kenya, Tanzania and Uganda, Kenya has 21 female MPs following the 2007 election, compared to 97 in Tanzania and 102 in Uganda. Efforts to secure better representation through reserved seats prior to the 2007 election were thwarted, when MPs did not form the required quorum for a constitutional amendment.

For Kenya's smallest communities, their failure to secure a nominated seat in the 2008 parliament was a major disappointment. It has been a long-standing grievance among these communities that the 210 constituency MPs in Kenya, are generally drawn from the dominant community in the constituency - making it extremely difficult for some of the smaller pastoralist and hunter-gatherer groups to be represented. The delimitation of boundaries by the Independent Electoral and Boundaries Commission (IEBC) did not help the minority communities. Ogiek, Endorois, Ilchamus and others remain unrepresented in parliament. However, it is hoped that they will be represented in the County Assembly. County Assemblies represent people at a devolved county level of government. The 2010 Constitution has introduced government at the national and county level and Kenya has been divided into 47 counties.

Parliamentary representation in Kenya is particularly important - not just because it gives communities access to political power. Since Kibaki's first term in office, substantial Constituency Development Funds (CDFs) are allocated to MPs. Small communities, like the Ogiek, have all too often found these swallowed up by the larger ethnic groups within the constituencies. The parliament, a bicameral house of National Assembly and Senate, would be a powerful institution since all senior appointments at the national level will be approved by the National Assembly.

In the run-up to the 2007 vote, the Hunter-Gatherer Forum which represents the Ogiek, the Yaaku, the Sengwer, the El Molo and the Aweer, wrote letters to the officials at the main political parties, telling them of the need for nominated MPs. The Ogiek, in particular, lobbied hard. When Raila Odinga came seeking their votes in the election campaign, they gave him their support and made him an elder. Daniel Kobei of the Ogiek Peoples' Development Programme says,

'They should have nominated the Ogiek to parliament. They have not done anything. The real positions have gone to their own people.'

Ignoring the claims of the smaller minorities and indigenous communities to nominated seats also flew in the face of a 2006 ruling by the Kenya Constitutional Court in favour of the Ilchamus people. This small pastoralist community is located around Lake Baringo in the Rift Valley. They number 35,000 - 40,000, with registered voters of 7,000. Like the Ogiek, their separate identity is not officially recognized by the Kenyan State. The Ilchamus had long complained that their interests were not being represented at a national level, because they did not have an MP. With the help of Ilchamus lawyer,

Thomas Letangule, they took a case to the Kenyan Constitutional Court. In an important ruling, the three judges ruled that the Ilchamus qualified as 'special interest' group under the current constitution:

‘Although the Constitution does not define special interests contemplated by Section 33(i), they include those interests which have not been taken care of by the election process, and which are vital to the effectiveness of the democratic election in terms of adequate representation for all in a democracy.’

But in the Kenyan political system, constitutional court rulings are often only implemented following considerable lobbying at parliamentary level. Caught in a vicious circle, the Ilchamus who are campaigning for the right to have an MP, find themselves without anyone to champion their cause within parliament. Six years after the high court ruling, Ilchamus remain unrepresented.

After the 2007 election, the Kenyan National Commission for Human Rights along with Kenyan minority rights activists, have also lodged another case with the constitutional court to try to get it to define what 'special interest' means. However, it may take up to three years before there is a ruling in this case.

## **2010 Constitution**

The adoption of the new Constitution in 2010 is held to be one of the most significant political events since the country gained independence from Great Britain in 1963. A more decentralised political system and a significant limitation of the president's powers are enshrined in the document, which replaces corrupt provincial governments by local counties. A Senate, the second chamber of parliament, has also been established and a Land Commission set up, whose key task is to settle ownership disputes and review past abuses.

The promulgation of the new Constitution followed a series of security sector and legal and institutional reforms and the launch of the 'Kenya Vision 2030' national development plan. The new Constitution is progressive and includes provisions that have the potential to secure the rights of minorities and indigenous peoples in Kenya. For instance, it stipulates national values and principles of governance (Article 10); expressly acknowledges the rights of minorities and marginalized groups (Article 56); protects community land ownership (Article 63); incorporates socio-economic rights (Article 43); guarantees access to justice for all persons (Article 48); guarantees the right to language and culture (Article 44); provides for an equitable share of the national revenue and resources (Article 202); and importantly, devolves power to the people at the local level (chapter 11).

Of key significance to minority and indigenous women in Kenya, the new Constitution provides for 'equal treatment of men and women including the right to equal opportunities in political, economic, cultural and social spheres' (Article 27 (3)). That means that women in Kenya, including those from indigenous and minority communities, have equal rights relative to citizenship, matrimonial property and inheritance. The new Constitution further outlaws any person from compelling another 'to perform, observe or undergo any cultural practice or rite' (Article 44(3)). This provision effectively protects women and girls from harmful cultural practices, which are common in some indigenous and minority communities.

As MRG has pointed out, the new Constitution brought about renewed hopes and expectations that the specific concerns of indigenous and minority people will be addressed. Halting forced evictions and securing the land rights of indigenous communities continues to be a concern. Indeed, during the reporting period, one minority community – Ogiek – were threatened with eviction from their ancestral lands in Mau Forest. An application has since been filed (2009) at the African Commission on Human and Peoples Rights (ACHPR) on behalf of the community by Ogiek Peoples Development Programme

(OPDP), Centre for Minority Rights Development (CEMIRIDE) and MRG, alleging various violations, including forced evictions from their territory and lands.

However, it is important to acknowledge the Ministry of Lands' intimations that it is looking to secure the land rights of indigenous communities through the new Land Policy adopted in 2009. Despite this, and promises that the state would implement the 2010 Endorois decision by the ACHPR, this has not yet happened. However, it is encouraging to note that the matter of the implementation of the Endorois decision has been raised in parliament.

In 2011 six senior political figures – known as the 'Ocampo Six' – faced prosecution before the International Criminal Court (ICC). The Head of Public Service Francis Muthaura and Finance Minister Uhuru Kenyatta were charged in relation to killings, forced transfers and rapes, allegedly committed in Nakuru and Naivasha in January 2008 especially against those perceived as supporters of the Orange Democratic Movement (ODM), in particular those belonging to the Luo, Luhya and Kalenjin ethnic groups. Suspended Higher Education Minister William Ruto and Head of Operations at Kass FM Joshua Arap Sang were charged separately for crimes they allegedly committed in the Rift Valley against supporters of President Mwai Kibaki's Party of National Unity (PNU) in 2007. The judges refused to confirm charges against the two others accused due to lack of adequate evidence.

### **2013 general election**

This will be a historical election; it is the first under the 2010 Constitution and the first after the post-election violence in 2007/8. Lots of resources have been invested by both Kenya and the international community, but there are concerns that the election-related violence will break out again. The election was delayed from August 2012 to March 2013, because of challenges experienced in the implementation of the Constitution.

[^top](#)