



Australian Government
Refugee Review Tribunal

Country Advice

Kenya

Kenya – KEN37991 – Luo – Kisumu –
Criminal gangs – Nubians – Police – State
protection
5 January 2011

1. Please provide information on the Luo ethnic group in Kenya.

The Luo (or Kavirondo) comprise the third largest ethnic group in Kenya, after the Kikuyu and Luhya. Depending on the date of the sources used, estimates of the size of the Luo in Kenya vary between 11 and 13% of the population, or about 4 million people.¹ The tribe is large, and members of the tribe also reside in Tanzania, Sudan and Uganda, the last of these countries from where they possibly originally emigrated.² They are strongly associated with fishing and agriculture but are also frequently tenant farmers and urban workers.³

The Luo language is Dholuo, still commonly spoken, and the tribe is predominantly Christian.⁴

Within Kenya, the Luo have traditionally lived in the area around Lake Victoria in western Kenya.⁵ This includes the city of Kisumu which a 2008 article written for the Foreign Policy Research Institute describes as Luo heartland.⁶

The Luo have a history of involvement with political activity and have held opposition portfolios; however, the Kikuyu have held power most often since independence. The current Prime Minister, Raila Odinga, who agreed to form a coalition government with President Mwai Kibaki after the December 2007 elections, is from the Luo tribe.⁷ The Orange Democratic Movement which Odinga heads comprises the Luo and other minority tribes.

¹ 'Luo' (undated), *Encyclopaedia Britannica*, <http://www.britannica.com/EBchecked/topic/351643/Luo> - Accessed 23 December 2010 – Attachment 1

² US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Kenya*, Section 6 - Attachment 2

³ 'Luo' (undated), *Encyclopaedia Britannica*, <http://www.britannica.com/EBchecked/topic/351643/Luo> - Accessed 23 December 2010 - Attachment 1

⁴ 'The Luo Tribe' (undated, but 2008), Kenya-Advisor website, <http://www.kenya-advisor.com/luo-tribe.html> - Accessed 23 December 2010 - Attachment 3

⁵ 'Luo' (undated), *Encyclopaedia Britannica*, <http://www.britannica.com/EBchecked/topic/351643/Luo> - Accessed 23 December 2010 - Attachment 1

⁶ Jones, Garrett 2008, 'Kenya: E-notes: Understanding Kenya', Foreign Policy Research Institute, January - Attachment 4

⁷ 'The Luo Tribe' (undated, but 2008), Kenya-Advisor website, <http://www.kenya-advisor.com/luo-tribe.html> - Accessed 23 December 2010 - Attachment 3

2. Is there any information to suggest that Muslim Nubian gangs operate without hindrance in places such as Kisumu?

Nubians arrived in Kenya from the Sudan as soldiers of the British Colonial Army (King's African Rifles) but have since experienced difficulty in obtaining nationality and are discriminated against in relation to both citizenship and property rights.⁸ There are approximately 100,000 Nubians in the country, most of whom are Muslim.⁹ Most live in the slum of Kibera, near Nairobi, although they are also found in sizable enclaves in other towns including Kisumu. The new Constitution ratified by referendum and signed into law by the President in August 2010 will provide for Kibera representatives to be nominated to Parliament to resolve the Kibera land issue and a land commission will also be formed.¹⁰

The difficulty in obtaining valid identity cards prevents Nubians from obtaining proper employment, from obtaining a driver's licence and restricts ability to travel abroad. Significant delays in replacement of lost or stolen cards are normal.^{11 12} This background information may be relevant in considering criminal activity in Kisumu.

There are many reports of gangs operating in Kisumu; however, it does not appear that these are specifically or exclusively Muslim Nubian gangs. Following the 2007 election the turmoil seemed to have led to heightened activity of such groups, particularly in 2008. Some of this appeared to be opportunistic criminal behaviour. There was also apparently a degree of residual resentment directed towards the Kikuyu who with the contested victory of President Mwai Kibaki at the 2007 elections were regarded as part of an 'enemy community' as one report described it.¹³ An *Economist* article published in February 2008 claimed that 20,000 Kikuyus had been driven out of Kisumu since the election but that dire economic circumstances were also to be found, with widespread property damage having occurred and very high unemployment.

In the past few weeks, Kisumu has been ethnically cleansed. The Luos have driven out 20,000 or so Kikuyus from a population of 380,000; few will return. Every Kikuyu business and home has been looted and burned. The UN recently chose Kisumu as a "millennium city", with plans to turn it into a kind of hub. Now many of its streets are gutted and charred. Thousands of jobs have been lost; nearly three-quarters of Kisumu's people are out of work.

Luo bitterness has deep roots. Most Luos still believe that Mr Odinga's populist father, Oginga Odinga, Kenya's first vice-president, was cheated and abused by Kenya's ruling Kikuyu elite after independence in 1963. Many still hark back to the unexplained assassination in 1969 of

⁸ 'The Nubian Community in Kenya v. the State of Kenya' 2010, Open Society Justice Initiative, Communication 317/06, 17 May, <http://www.soros.org/initiatives/justice/litigation/ali/ali-communication-20100517.pdf> - Accessed 4 January 2011 - Attachment 5

⁹ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Kenya*, Section 2 - Attachment 2

¹⁰ 'Kenya: Constitution heralds new dawn for the Nubians' 2010, *News from Africa*, 19 August, http://www.newsfromafrica.org/newsfromafrica/articles/art_11882.html - Accessed 4 January 2011 – Attachment 6

¹¹ Ochieng, Zachary 2006, 'Kenya's Marginalized Muslim Community', Oh My News website, 23 December, http://english.ohmynews.com/articleview/article_view.asp?at_code=381915 – Accessed 4 January 2011 – Attachment 7

¹² 'The Nubian Community in Kenya v. the State of Kenya' 2010, Open Society Justice Initiative, Communication 317/06, 17 May, <http://www.soros.org/initiatives/justice/litigation/ali/ali-communication-20100517.pdf> - Accessed 4 January 2011 - Attachment 5

¹³ 'Kenya: Kisumu's perilous slide into anarchy' 2008, All Africa [source: *Daily Nation*], 6 February, <http://allafrica.com/stories/200802060574.html> - Accessed 23 December 2010 – Attachment 8

Tom Mboya, another Luo they believe was destined for the presidency. In 1990 another Luo hero, Robert Ouko, then Kenya's foreign minister, was also murdered.

A sense of economic desolation as well as political turmoil pervades the Luo fishing villages edging Lake Victoria. Since the election, insecurity has driven fish buyers away. Even if they come, the price is low. As there is no electricity and no refrigeration, the buyers drive hard bargains. Prices for basic foodstuffs have risen steeply, with sugar and maize meal costing double since the election.

In the past decade or so, Luoland has been particularly hard hit by AIDS; malaria has long been endemic. George Onyango, a 40-year-old fisherman in the village of Bao, west of Kisumu, reckons that a quarter of his childhood friends are already dead. The village nurse has no antibiotics, let alone good transport. Villagers rail against Kikuyus, though no one remembers a Kikuyu ever living there.¹⁴

Reports of gang activities in Kisumu and other centres in Western Kenya have occurred periodically since the beginning of 2008. For example, in November 2009 residents called on the government to provide increased security following a gang raid on a house in Webuye Town. Other attacks by gangs were reported at the Pan Paper Mills, in Migori; and in Koyango, Manyatta in Kisumu, police shot dead an alleged gang leader who had been intimidating local residents and stolen property was found at his house.¹⁵

In May 2010, armed robberies by gangsters were said to be increasing in Kisumu.¹⁶

3. Deleted.

4. What level of police protection is available in Kisumu?

A 2007 RRT Research Response provided general information on state protection in Kenya.¹⁷ There appears to have been little improvement in the standard of policing since. The Waki Commission report released in September 2008 into the post-election violence (December 2007-January 2008) found widespread failure by the government agencies to prevent the 1,100 associated deaths; it found police were directly responsible for the shooting of demonstrators and that there was limited preparation for the violence that occurred. In his report of February 2009 the UN Special Rapporteur Philip Alston found substantial evidence that there was 'systematic, widespread and carefully planned extrajudicial executions undertaken on a regular basis by the Kenyan police.' There was also a lack of accountability, reporting or investigation of such deaths, much of this being attributed to the Attorney-General Amos Wako's failure to reform the political and judicial system's inadequacies.¹⁸

¹⁴ 'Ethnic cleansing in Luoland' 2008, *The Economist*, <http://www.economist.com/node/10653938> - Accessed 24 December 2010 – Attachment 9

¹⁵ 'Kenya: Man shot as crime soars in towns' 2009, All Africa [source: *Daily Nation*], 10 November - Attachment 10

¹⁶ 'Kenya: Gunman kills two in failed robbery' 2010, All Africa [source: *Daily Nation*], 10 May, <http://allafrica.com/stories/201005101898.html> - Accessed 23 December 2010 - Attachment 11

¹⁷ RRT Research & Information 2007, *Research Response - KEN31420*, 27 February - Attachment 12

¹⁸ 'Kenya: UN Special Rapporteur on Extrajudicial, Arbitrary or Summary Executions Mission to Kenya' 2009, All Africa [source: United Nations], 26 February, <http://allafrica.com/stories/200902260124.html> - Accessed 23 December 2009 – Attachment 13

Corruption and bribery were still reported in 2010 by Transparency International to be strongly associated with obtaining access to Kenyan police and judicial services.¹⁹ The US Department of State did, however, report that ‘several dozen’ police officers were arrested for petty corruption [in 2009].²⁰

The police force in Kenya is generally seen as not reliable, described in an Economist Intelligence Unit Country Monitor in 2009 as “poorly equipped, inadequately trained, under-paid, and corrupt.”²¹

The police force is also understaffed, with only one police officer for every 900 people (compared to an international standard of 400). Recruitment was also temporarily frozen between 2009 and 2010, so that reforms recommended by a retired judge could be implemented. The Police Commissioner acknowledged in an interview for a May 2010 news article that the force was in need of additional resources, and that criminal gangs posed ‘the most serious threat to security.’²²

In failing to adequately monitor a community policing program introduced in 2005, a 2009 study found that some protest and militia groups had transformed themselves into criminal gangs, a finding acknowledged by the Police Commissioner.

According to a study carried out last year and commissioned by the Kofi Annan-led Panel of Eminent Persons, militias which perpetrated some of the worst violence after the last General Election had transformed into criminal gangs and had taken advantage of the community policing project to claim legitimacy.

"The groups are indeed criminals and have nothing to do with community policing," he admits. Malindi, Rongai and Obunga slums in Kisumu are some of the areas where the concept "has significantly improved the quality of life and the business environment," he says. The police boss notes that in these areas, respected community members including elders, businesspeople, social workers and civil servants drive the policing groups. Those areas that failed to achieve much from community policing drew members from "jobless youth, coalescing around influential individuals."

The police boss also contends that in some cases, his officers are to blame for the war against crime. "This is why in the extreme cases, police may have literally given up their beat patrol and apprehension role to vigilantes who eventually turned into criminal gangs," adds Mr Iteere.²³

Although detailed statistical information on crime and crime prevention in Kisumu was not found, no reports were found to indicate that the standard of policing or accessibility of police services were significantly different from other Kenyan cities of similar size. The Kenyan

¹⁹ ‘Kenya: Local Police - ‘Most Corrupt’ Tag Refuses to Go Away’ 2010, All Africa [source: *Daily Nation*], 10 December - <http://allafrica.com/stories/201012130741.html> - Accessed 4 January 2011 - Attachment 14 (See also Transparency International 2010, East Africa Bribery Index, July, <http://www.tikenya.org/documents/EABI-2010.pdf> - Accessed 4 January 2011)

²⁰ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Kenya*, Section 1d - Attachment 2

²¹ ‘Kenya: Risk ratings’ 2010, Economist Intelligence Unit – Country Monitor, 11 May - Attachment 15

²² ‘Kenyan police score poorly in fight against crimes’ 2010, All Africa [source: *Daily Nation*], 6 May, <http://allafrica.com/stories/201005060973.html> - Accessed 4 January 2011 – Attachment 16

²³ ‘Kenyan police score poorly in fight against crimes’ 2010, All Africa [source: *Daily Nation*], 6 May, <http://allafrica.com/stories/201005060973.html> - Accessed 4 January 2011 – Attachment 16

Police website contains some older crime data and does contain information concerning numbers to call for assistance and how to make a complaint against police.²⁴

Attachments

1. 'Luo' (undated), *Encyclopaedia Britannica*, <http://www.britannica.com/EBchecked/topic/351643/Luo> - Accessed 23 December 2010.
2. US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Kenya*.
3. The Luo Tribe' (undated, but 2008), Kenya-Advisor website, <http://www.kenya-advisor.com/luo-tribe.html> - Accessed 23 December 2010.
4. Jones, Garrett 2008, 'Kenya: E-notes: Understanding Kenya', Foreign Policy Research Institute, January. (CISNET Kenya - CX190951)
5. 'The Nubian Community in Kenya v. the State of Kenya' 2010, Open Society Justice Initiative, Communication 317/06, 17 May, <http://www.soros.org/initiatives/justice/litigation/ali/ali-communication-20100517.pdf> - Accessed 4 January 2011.
6. 'Kenya: Constitution heralds new dawn for the Nubians' 2010, *News from Africa*, 19 August, http://www.newsfromafrica.org/newsfromafrica/articles/art_11882.html - Accessed 4 January 2011.
7. Ochieng, Zachary 2006, 'Kenya's Marginalized Muslim Community', Oh My News website, 23 December, http://english.ohmynews.com/articleview/article_view.asp?at_code=381915 – Accessed 4 January 2011.
8. 'Kenya: Kisumu's perilous slide into anarchy' 2008, All Africa [source: *Daily Nation*], 6 February, <http://allafrica.com/stories/200802060574.html> - Accessed 23 December 2010.
9. 'Ethnic cleansing in Luoland' 2008, *The Economist*, <http://www.economist.com/node/10653938> - Accessed 24 December 2010.
10. 'Kenya: Man shot as crime soars in towns' 2009, All Africa [source: *Daily Nation*], 10 November. (FACTIVA)
11. 'Kenya: Gunman kills two in failed robbery' 2010, All Africa [source: *Daily Nation*], 10 May, <http://allafrica.com/stories/201005101898.html> - Accessed 23 December 2010.
12. RRT Research & Information 2007, *Research Response - KEN31420*, 27 February.
13. 'Kenya: UN Special Rapporteur on Extrajudicial, Arbitrary or Summary Executions Mission to Kenya' 2009, All Africa [source: United Nations], 26 February, <http://allafrica.com/stories/200902260124.html> - Accessed 23 December 2009.

²⁴ See Kenya Police website <http://www.kenyapolice.go.ke/News118.asp>

14. 'Kenya: Local Police - 'Most Corrupt' Tag Refuses to Go Away' 2010, All Africa [source: *Daily Nation*], 10 December - <http://allafrica.com/stories/201012130741.html> - Accessed 4 January 2011.
15. 'Kenya: Risk ratings' 2010, Economist Intelligence Unit – Country Monitor, 11 May. (FACTIVA)
16. 'Kenyan police score poorly in fight against crimes' 2010, All Africa [source: *Daily Nation*], 6 May, <http://allafrica.com/stories/201005060973.html> - Accessed 4 January 2011. (FACTIVA)