

Kenya

Since this chapter was written, Kenya's parliamentary and presidential elections took place on December 27, 2007. Although the parliamentary elections proceeded smoothly, the presidential poll was marred by serious fraud, primarily by the government, plunging the country into the most serious crisis since independence. Widespread protests over the election were brutally suppressed by police, while dozens of communities in western Kenya's Rift Valley were affected by ethnic-based reprisal attacks. By the end of January 2008 at least 800 people had died and several hundred thousand people have been displaced by the violence.

Kenya's multiparty political system has developed considerably since the retirement of President Daniel Arap Moi in 2002. The new pluralism, though flawed and very fractious, has helped stabilize the country, along with economic growth, a less divisive executive style and increasingly independent media and legislature. In 2007, the human rights situation was shaped by the run-up to the December elections and the persistent corruption that has plagued the nation for decades. In addition, the escalating conflicts in neighboring Somalia and the Somali region of Ethiopia contributed to instability throughout the region, strengthening fears of further terrorist attacks in Kenya. Kenya's borders were closed to refugees and terrorism suspects fleeing Somalia were sent back, for rendition to Ethiopia.

A brutal police clampdown on a renegade criminal gang in Nairobi's slums resulted in the extrajudicial killings of hundreds of people.

In the Mount Elgon region, clashes among clans of the Kalenjin tribe left nearly 200 people dead and some 116,000 displaced.

Elections and Governance

Kenya's political climate has improved considerably since the 1990s, when elections were regularly marred by state-sponsored violence and harassment of journalists and human rights defenders.

The run-up to the December 2007 elections was far less violent than that of past election years, although, as of this writing, there were sporadic clashes in various parts of the country, and a series of attacks on women candidates in local and parliamentary elections threatened the prospects for fair elections in those areas.

Kenya has one of the most assertive, independent Parliaments in Africa today. Government frequently struggles to get its legislative initiatives enacted. In turn, President Mwai Kibaki has on occasion successfully vetoed bills passed by the legislature. During 2007, Kibaki rejected two publicly controversial bills passed by parliament—a restrictive media bill and a bill limiting the activities of the Kenya Anti-Corruption Commission (KACC). Public outcry over the bills, and parliament’s vote to award a huge pay rise to its own members coupled with ongoing revelations about corruption and patronage, made it likely that large numbers of parliamentarians would not retain their seats.

Mistreatment of Refugees from Somalia

In December 2006, Ethiopian forces with US assistance ousted the Union of Islamic Courts (UIC) and installed the Transitional Federal Government (TFG) in Mogadishu. Several terrorism suspects believed to have been responsible for the 1998 bombing of the US Embassy in Nairobi and the 2002 Mombasa hotel bombing were alleged by the US to be living in Somalia under UIC protection.

In an attempt to stem the flow of refugees, the Kenyan government closed the border with Somalia in January 2007 and only gradually opened up limited cross-border access for humanitarian relief convoys as the year progressed. In January and February 2007 Kenyan security forces, including the Anti-Terrorism Police Unit, held scores of individuals who fled Somalia in incommunicado detention for weeks. At least 85 individuals were then expelled from Kenya to Somalia on several flights, and were subsequently rendered to Ethiopia, where they were held for several months without charge.

Among the group detained in Kenya and rendered to Ethiopia were Kenyan citizens and more than twenty women and young children, most of them under the age of fifteen. Several individuals were deported from Kenya in the midst of pending habeas corpus applications in the Kenyan courts. At least 40 individuals, including the women and children, were released from Ethiopian custody between April and

June, but the whereabouts of scores of others, including the alleged Kenyan citizens, remain unknown.

The Mungiki Sect and Subsequent Police Crackdown

In June 2007 Kenyan police launched a crackdown on the Mungiki sect, a quasi-religious Kikuyu criminal gang responsible for a spate of recent attacks in Nairobi's shanty towns, especially Mathare.

The Mungiki sect engages in mafia-like economic and political activities and claims to have connections to the nation's political elite, although the group is not connected to the state. Its members raise funds through protection rackets, and by levying extra charges on public transportation as well as water and electricity connections. Those who are not able or refuse to pay have not only been denied services but have in some cases have also been kidnapped, tortured, and, in several notorious cases, beheaded. The victims to date include several policemen and tourists.

The brutality of the police crackdown matched or even exceeded that of the Mungiki itself. Police searching for weapons ransacked homes and shops and carried out brutal interrogations of suspects involving torture and beating. In November, the Kenya National Commission on Human Rights reported that there had been over 450 extrajudicial police killings related to the Mungiki violence. Many of the victims were found with a bullet in the back of the head. The police denied responsibility for the killings, but many slum dwellers corroborated the report's claims.

Media Freedom

Press freedom has improved considerably in Kenya since the elections of 2002. However, there have been some instances of official intolerance of political criticism. In March 2006 the Standard newspaper published an article describing a secret meeting between President Kibaki and an opposition politician. The government ordered the police to raid the newspaper's offices, as well as the office of their broadcast affiliate, KTN channel. The case drew international condemnation, and there were no similar incidents in 2007. However, certain controversial issues, such as the Mount Elgon clashes (see below) and the rounding up and rendition of individuals fleeing Somalia in Kenya are seldom reported on, perhaps due to wariness about the government's reaction.

In September, President Mwai Kibaki rejected legislation that included a controversial amendment introduced by a member of his own party, requiring journalists to reveal their sources. The move was greeted with widespread relief by the human rights community.

Corruption

Action to address Kenya's longstanding problems with corruption continue to be desultory. The Kenyan Anti-Corruption Commission—established after the 2002 elections—has arrested numerous chiefs, policemen, taxi touts, and others on charges of bribery. However, since the first KACC head John Githongo fled the country in 2005, claiming he had been threatened, no effort has been made to recover the vast sums of government money—which some estimates place in the billions of dollars—that have been lost in major scandals such as Anglo-Leasing and Goldenberg. Many senior politicians and judges are alleged to have been involved, and some officials did resign when these allegations came to light.

In September 2007, parliament passed the Statute Law (Miscellaneous Amendments Bill) permitting the Anti-Corruption Commission to investigate only offenses committed after 2003. Since the most serious scandals date from before that time, this was seen as a move to protect many parliamentarians from prosecution. President Kibaki rejected the legislation.

Women's and Children's Rights

In 2007, Parliament passed a new Sexual Offenses Bill that broadens the definition of sexual and gender-based violence and imposes harsher penalties on perpetrators. Women's rights groups are now actively working to implement the bill.

Kenya also made considerable progress in expanding access to free AIDS treatment services for the approximately six percent of the population living with HIV. At present, these programs tend to prioritize adults over children, however. Poverty and lack of information also prevent many children and adults with AIDS from obtaining services to which they are entitled.

Human Rights Defenders

Most human rights groups functioned without interference in 2007. However, Maina Kiai, the head of the Kenya National Commission on Human Rights (KNCHR) was investigated by the Kenya Anti-Corruption Commission. Independent non-governmental human rights monitors have claimed the charges may have been related to KNCHR investigations of corruption on the part of the Kenyan government, including the purchase of a fleet of expensive cars for government officials, and the use of public funds for by-election campaigns. A full investigation of the allegations against Kiai is still pending.

In the Mount Elgon region, fighting among clans of the Kalenjin tribe left nearly 200 people dead and around 116,000 displaced. Human rights groups, journalists and even the International Committee of the Red Cross were temporarily barred by Kenyan security services from entering the area.

In August, a legal protest against the extremely generous raises that Parliament voted for itself was violently disrupted by police using tear gas. Many of the demonstrators were rounded up, beaten and held overnight in police cells. They were all released the next day.

Key International Actors

Foreign donors, originally optimistic that President Kibaki would crack down more vigorously on corruption, have lowered their expectations and generally remained silent about Kenya's human rights performance. For the US, Kenya is a frontline state in counterterrorism efforts, and since 2001 US military aid to Kenya has increased eight-fold, most of it for weapons and training.

Kenya derives only seven percent of its budget from foreign aid, so donor leverage on human rights issues may be more limited than in other countries in the region. The World Bank and IMF, which pulled out of Kenya during the Moi regime, have begun lending again, especially in the areas of public sector management, fighting corruption and simplifying the legal procedures for starting a business or selling land.

Despite the nation's ongoing struggle with corruption, the World Bank has praised Kenya's economic reforms and Kenya has also been commended, both locally and

internationally, for its Universal Primary Education Program and for expanding access to primary health care.