

COUNTRY OF ORIGIN INFORMATION KEY DOCUMENTS



23 NOVEMBER 2007

BORDER AND IMMIGRATION AGENCY

COUNTRY OF ORIGIN INFORMATION SERVICE

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Preface

This Country of Origin Information Key Documents (COI Key Documents) on Kenya has been produced by COI Service, Border and Immigration Agency (BIA), for use by officials involved in the asylum/human rights determination process. It provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The COI Key Documents includes information available up to 23 November 2007

- ii The COI Key Documents is an indexed list of key reports, papers and articles produced by a wide range of recognised external information sources. It does not contain any BIA opinion or policy.
- For BIA users, the COI Key Documents provides direct electronic access to each source referred to in the document, via a link on the source numbers in the index and list of sources. For the benefit of external users, the relevant web link has also been included, together with the date that the link was accessed.
- iv As noted above, the documents identified concentrate mainly on human rights issues. By way of introduction, brief background information on Kenya is also provided. Please note, this background material is not intended to provide a summary of the material contained in the documents listed.
- v This COI Key Documents and the documents listed are publicly disclosable.
- vi Any comments regarding this COI Key Documents or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

- The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the BIA's country of origin information material. The Advisory Panel welcomes all feedback on the BIA's COI Key Documents and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk
- xi It is not the function of the Advisory Panel to endorse any BIA material or procedures. In the course of its work, the Advisory Panel directly reviews the

content of selected BIA COI documents, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

Advisory Panel on Country Information

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2. Background Information on Kenya

Area: 580,370 sq. km (224,081sq. ml) **Population**: 34.5 million (2005)

Capital city: Nairobi

People (approx): Kikuyu 22%, Luhya 15%, Luo 12% Kalenjin 12%, Kamba 11%, Kisii 6%,

Meru 6%, Maasai/Samburu 2%

Language(s): English, Kiswahili, various indigenous languages

Religion(s): Protestant (mainstream) 27%, Protestant (evangelical) 23%, Roman

Catholic 31%, Muslim 8%, other 2%, None 2% (Afro Barometer, March 2004)

Currency: Kenyan shilling (KSH) £135KSh (May 2007)

Head of State: Emilio Mwai Kibaki (elected 27 December 2002)

Foreign Minister: Raphael Tuju

Major Political parties: ODM-K, Narc-K, Ford-K, Ford-P, LPK, NPK, Safina, New Kanu,

Kanu.

Membership of international groupings/organisations: UN, Commonwealth, African Union, WTO, East African Community (EAC), Inter-Governmental Authority on Development (IGAD), Common Market for Eastern and Southern Africa (COMESA). [1a] (p1)

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GEOGRAPHY

"Kenya lies in East Africa, and is bordered by Somalia, Ethiopia, Sudan, Uganda, Tanzania, and the Indian Ocean. Kenya has a climate ranging from tropical to temperate largely depending on the altitude." (Foreign and Commonwealth Office) [1a] (p1)

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RECENT HISTORY

"Kenya became a British protectorate in 1895 and a colony in 1920. White settlement was encouraged and by the 1940s European settlers had achieved considerable prosperity. African population growth resulted in increasing pressure for land. Jomo Kenyatta formed the first national organisation in 1944. But when the Mau Mau rebellion erupted in 1952, a state of emergency was declared, parties were banned and Kenyatta was tried and sent to prison. African members were elected to the legislative council in 1957 and the state of emergency was lifted in 1960. Political parties were legalised and Africans formed a majority on the legislative council. Two parties emerged: the Kenya Africa National Union (KANU) and the Kenya African Democratic Union (KADU). KANU won a general election in 1961 but refused to form an administration until the release of Kenyatta. At independence in 1963, Kenyatta became Prime Minister. The following year KADU dissolved itself and Kenya became a republic with Kenyatta as its first President. A new opposition party was banned in 1969 and Kenya remained a de facto one-party state for the remainder of Kenyatta's rule. On his death in 1978 Daniel arap Moi became President and later turned Kenya into a de jure one-party state. In 1991, under pressure from Kenyan activists and the international community, this was reversed. With multi-partyism restored, several opposition parties emerged: FORD Kenya, FORD Asili, Democratic Party, Social Democratic Party, National Development Party of Kenya and other smaller parties. However KANU retained control, winning contentious elections in 1992 and 1997 against a divided opposition and amidst allegations of election abuse. The Kenyan political environment remained turbulent throughout the 1990s." (Foreign and Commonwealth Office) [1a] (p2)

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RECENT EVENTS AND POLITICAL DEVELOPMENTS

"President Moi stepped down in 2002, as required by the 1991 constitution. Uhuru Kenyatta, son of Jomo, secured the leadership of KANU and stood for the Presidency, but a group of MPs broke with KANU to form the Liberal Democratic Party (LDP). For the first time, all the opposition parties united under the banner of the National Rainbow Coalition (NARC) and behind a single presidential candidate. President Kibaki's general election victory on 27 December 2002 ended nearly 40 years of KANU rule. The elections were the cleanest and most peaceful in Kenya's history and were followed by a smooth transfer of power to NARC. President Kibaki secured 62% of the popular vote and NARC won 132 seats in the unicameral parliament of 222 seats." (Foreign and Commonwealth Office) [1a] (p2)

"But the first years of NARC's rule have proved difficult due to the fracturing of the NARC coalition. Since June 2004 the government has included representatives from KANU and FORD People as well. The biggest disagreements have been over completion of the constitutional review process started under Moi. A lengthy public consultation process produced a new draft constitution (known as the Bomas draft) in March 2004. But its provisions, notably those reducing the executive powers of the Presidency, proved unacceptable to the government. After a protracted legal wrangle the government secured Parliamentary approval for certain key amendments to be made and a new Constitution Bill was published. However, the new draft was rejected by 58% of voters when it was put to a referendum in November 2005. This prompted Kibaki to sack his entire government and start with a new team which excluded all those Ministers who voted against the draft. The No campaigners formed a new political party, ODM-K, which looks likely to be the main opposition to the pro-Government Narc-K at the next election scheduled for 2007. The constitutional review has dominated political debate to the detriment of other government business. Progress in tackling corruption has also been disappointing. Corruption re-emerged as a major public concern in mid-2004 and represents a major threat to achieving social and economic reform." (Foreign and Commonwealth Office) [1a] (p2)

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ECONOMY

GDP: US\$ 19.4 bn (2005); GDP per capita: US\$566 (est 2005)GDP (purchasing power

parity): \$41.48 billion (2006 est.)

GDP (official exchange rate): \$17.49 billion (2006 est.)

GDP - real growth rate: 6.1% (2006 est.) **GDP - per capita (PPP)**: \$1,200 (2006 est.)

GDP - composition by sector: agriculture: 24% industry: 16.7% services: 59.2%

(2004est.)

Labor force: 1.963 million (2006 est.)

Labor force - by occupation: agriculture: 75% industry and services: 25% (2003 est.)

Unemployment rate: 40% (2001 est.)

Population below poverty line: 50% (2000 est.)

Household income or consumption by percentage share: owest 10%: 2% highest 10%: 37.2% (2000). [30]

"Kenya's economy is reasonably diversified; although most employment is dependent on agriculture [A little over 74 per cent of the labour force were employed in agriculture in 2003.]. Agricultural development has been intermittently hindered by adverse weather

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conditions (generally low rainfall, although severe flooding occurred in 1997–98), resulting in sporadic food shortages, and also by rural ethnic unrest. Moreover, the country is highly vulnerable to fluctuations in international prices for its cash crops, most notably tea and coffee." (Europa World Online) [2a] (Economic Affairs)

"The regional hub for trade and finance in East Africa, Kenya has been hampered by corruption and by reliance upon several primary goods whose prices have remained low. In 1997, the IMF suspended Kenya's Enhanced Structural Adjustment Program due to the government's failure to maintain reforms and curb corruption... In 2003, progress was made in rooting out corruption and encouraging donor support. Since then, however, the KIBAKI government has been rocked by high-level graft scandals. The World Bank suspended aid for most of 2006, and the IMF has delayed loans pending further action by the government on corruption. The scandals have not seemed to affect growth, with GDP growing more than 5% in 2006." (Central Intelligence Agency, November 2007) [30]

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HUMAN RIGHTS

US State Department report 2006 on Kenya notes that: "The government in many areas respected the human rights of its citizens or attempted to institute reforms to address deficiencies. However, serious problems remained, particularly with regard to abuses by the police. The following human rights problems were reported:

- unlawful killings, torture and use of excessive force by police;
- police impunity; harsh and life-threatening prison conditions;
- arbitrary arrest and detention; prolonged pretrial detention;
- executive influence on the judiciary;
- incidents of disrespect for freedom of speech and the press;
- government corruption;
- abuse of and discrimination against women;
- female genital mutilation (FGM);
- child prostitution and labor;
- trafficking in persons;
- vigilante justice; interethnic violence;
- lack of enforcement of workers' rights." (US State Department: Human Rights Practices Kenya 2006) [4a] (section 1)

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POLICE AND SECURITY SERVICES

US State Department report 2006 on Kenya has reports: "There was a large internal security apparatus that included the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the national police, the administration police, and the paramilitary General Services Unit. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. These security forces are under the authority of the Ministry of State for Provincial Administration and National Security in the Office of the President. There was a public perception that police often were involved or complicit in criminal activity." (US State Department: Human Rights Practices Kenya 2006) [4a](section 1)

The US State Department report continues: "The results of a public perception survey released July 5 and conducted by the Kenya Anticorruption Commission (KACC) found that 86.3 percent of citizens considered the police the most corrupt government institution. The NGO Transparency International (TI) reported the same finding in its Kenya Bribery Index 2006, which stated that extortion by police increased in 2005, in contrast with the improvements reported from 2003 to 2004. The average bribe amount, however, decreased dramatically from approximately \$152 (10,831 shillings) in 2004 to \$20 (1,465 shillings) in 2005, a decrease which TI attributed to reforms in the public transportation sector. On August 15, The Nation reported that 19 traffic police officers had been arrested for accepting bribes. On September 5, a policeman in Nakuru was sentenced to four years in prison for taking a bribe of approximately \$70 (5,000 shillings) to terminate a criminal case. On November 7, his appeal was denied." (US State Department: Human Rights Practices Kenya 2006) [4a](section 1)

The US State Department report also notes: "Police, in collusion with prosecutors, resorted to unexplained illegal confinements, extortion, torture, and highly questionable and fabricated charges as a cover - up for malpractice. Impunity was a problem. Police officers were only occasionally arrested and prosecuted for corruption or for using excessive force. Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public scepticism of a process that assigned the investigation of police abuse to the police themselves... During the year the government took some steps to curb abuses of authority by police. In August the police commissioner inaugurated and deployed a special police squad that included undercover detectives whose mandate was to combat corruption in the police force during traffic stops. The government arrested and charged some police officers for various offences, including corruption, although the government did not provide details on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned." (US State Department: Human Rights Practices Kenya 2006) [4a](section 1)

MUNGIKI SECT

Apologetics Research Resources on religious movements, cults, sects, world religions and related issues has reported on Mungiki that: "The formation of Mungiki sect remains a mystery to many Kenyans. There have been contradicting statements. Some reports say the group possibly started in 1988 with the aim of toppling the government of immediate former president of Kenya, Daniel Torotich arap Moi. Those who share this thinking believe the group was an offshoot of Mwakenya, an underground movement formed in 1979 to challenge the Kenya African National Union (KANU) regime. Other reports indicate that Mungiki was founded in 1987 by some young schoolboys." (Apologetics Research Resources) [41]

"Confronted by authorities, their swift defence would be that theirs was a group of traditionalists interested only in re-introducing and promoting traditional way of life among the Kikuyu ethnic group. They posed as a traditional religious group, but an unusual one because taking snuff during worship was their trademark. But their hardline stand against Western idiologies put them on a collision course with the police. They started stripping naked in public, ladies wearing miniskirts and long trousers, and violently promoted female cut [Female circumcision - Al]. They would engage police in fierce running battles, and on a number of occasions, violently raided police stations to 'free arrested members'." (Apologetics Research Resources) [41]

"Their violent activities intensified. They systematically and forcefully began taking over management of commuter service vehicles, popularly known as Matatu. In March last year, they clashed with a vigilante group in Nairobi, and later unleashed terror on residents of a slum area, killing 23 people and injuring several others. This prompted the government to outlaw their grouping. They however, continued to exist, and even more openly propagated their warlike activities." (Apologetics Research Resources) [41]

BBC News has reported in an article 'Kenya's secretive Mungiki sect', dated 24 May 2007, that: "Today, Mungiki followers no longer sniff tobacco in public and have traded in the dreadlocks and unkempt appearance for neat haircuts and business suits. The religious bit is just a camouflage. It's more like an army unit. They extort, engage in fraud, robbery, murder and even kidnap their victims. Media reports say the sect has evolved over the years into an organised and intimidating underworld gang with bases in the capital, Nairobi, and parts of Central and Rift Valley Provinces. They control public transport routes and demand illegal levies from operators. Mungiki followers reign supreme within city slums, notably Mathare in the east of the capital. Here they provide illegal water and electricity connections to hundreds of makeshift shacks." (BBC News, 24 May 2007) [10f]

The BBC article also reports that: "Residents of the slums also have to pay a levy to the sect to be able to access communal toilets and for security during the night in the crime infested slums. Following the latest gruesome murders, the government has vowed to wipe out the group but many Kenyans feel there is a lukewarm approach to counter activities of the sect. Its leadership has openly claimed to have two million members around the country and to have infiltrated government offices, factories, schools and the armed forces. "Mungiki is a politically motivated gang of youths," says Ken Ouko, a sociology lecturer at the University of Nairobi. Mr Ouko suggests that security forces should infiltrate Mungiki to be able to counter its growing influence in Kenya. But the sect is known to operate in secrecy, a fact that is complicating efforts by the police to identify its members as the crackdown on them continues." (BBC News, 24 May 2007) [10f]

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WOMEN

"Although all forms of violence against women are prohibited, domestic violence against women was a serious and widespread problem. The penal code does not contain specific provisions against domestic violence, but treats it as an assault. Police generally would not investigate in cases of domestic violence, which they considered private family matters. The 2004 Kenya Demographic and Health Survey revealed that more than half of women had experienced domestic violence after the age of 15 years. Wife beating was prevalent and largely condoned by much of society. NGOs, including the Law Society of Kenya, provided free legal assistance to victims of domestic violence. On July 14, [2006] President Kibaki signed into law the Sexual Offenses Act, which criminalized rape, defilement, child pornography and sex tourism, and sexual harassment; the law had not been implemented by year's end." (US State Department: Human Rights Practices Kenya 2006) [4a](section 5)

"The new law maintained the existing penalty of up to life imprisonment for rape, although actual sentences usually were no longer than 10 years. The law established minimum sentences for both rape and defilement, with higher penalties for the latter. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, a fear of retribution against victims, the disinclination of police to intervene in domestic

disputes, and the unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, traditional culture permitted a husband to discipline his wife by physical means. Neither the new law nor previously existing laws specifically prohibit spousal rape. According to police statistics, there were 2,736 rapes nationwide during the year [2006] compared with 2,867 reported in 2005. Available statistics underreported the problem, since social mores discouraged women from going outside their families or ethnic groups to report sexual abuse. Human rights groups estimated that over 16,000 rapes were perpetrated annually." (US State Department: Human Rights Practices Kenya 2006) [4a](section 5)

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FEMALE GENITAL MUTILATION (FGM)

"The law prohibits FGM, but is still practiced, particularly in rural areas. According to the UN Children's Fund (UNICEF), 32 percent of women had undergone FGM. In 2004 an international conference on FGM in Nairobi reported that of the country's 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana, comprising 25 percent of the country's population) did not traditionally practice FGM. According to the NGO Maendeleo Ya Wanawake (Development of Women), the percentage of girls undergoing the procedure was 80 to 90 percent in some districts of the Eastern, Nyanza, and Rift Valley provinces. There were more public awareness and programs to stop the practice in which government officials often participated. For example, in December a Methodist and a Presbyterian church group conducted alternative ceremonies for 500 girls and boys." (US State Department: Human Rights Practices Kenya 2006) [4a](section 5)

"FGM usually was performed at an early age. Some churches and NGOs provided shelter to girls who fled their homes to avoid the practice, but community elders frequently interfered with attempts to stop the practice. A January media report noted that the frequency had dropped in one district to 54 percent compared to 93 percent in 1999 before awareness campaigns began targeting FGM. Despite anti-FGM programs, which increasingly focused on young men to convince them to marry women who had not undergone FGM, women and children who had not undergone FGM faced social stigma." (US State Department: Human Rights Practices Kenya 2006) [4a](section 5)

"In December 2005 there were a number of arrests of individuals accused of applying forced FGM. For example, four parents were arrested along with a man who performed FGM. In mid - December 2005 a woman in Nyandarua District plead guilty in court for subjecting four girls to FGM. During the same month, the Kuria district commissioner called for police to arrest parents who forced their daughters to undergo the procedure. In April 2005 17 girls in Marakwet District fled to avoid FGM and were given shelter in Eldoret by the NGO Center for Human Rights and Democracy. In April 2005 police forcibly removed the girls from the shelter and returned them to their villages. According to a media report, 20 girls were still in hiding with the aid of a church in Marakwet District three years after they fled their homes to avoid FGM. Government officials continued to attempt to stem FGM. In December, the provincial commissioner of the Rift Valley Province was quoted as having declared that any civil servant condoning or supporting FGM (such as nurses or local chiefs) would be fired. He added that the parents of girls subjected to the practice would be arrested." (US State Department: Human Rights Practices Kenya 2006) [4a](section 5)

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HIV/AIDS

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"The [HIV/AIDS] epidemic in Kenya peaked in the late 1990s with an overall HIV prevalence of 10% in adults; this declined to 7% in 2003, and the most recent sentinel surveillance evidence indicates that adult prevalence has now fallen to 6.1% as of end 2004. (UNGASS)[8a](p5) Currently all provincial hospitals and 70 district hospitals are providing comprehensive HIV care including core components of counselling services, prevention and treatment of OIs [opportunistic infections] and ARV [anti-retro virals]. ... Because of reduced costs, mobilisation of resources, and the development of guidelines and systems, there has been a six-fold increase in the number of patients on ARV therapy, from 3,000 patients in 2002 to 54,000 by September 2005 (Report on the Joint AIDS Programme Review 2005, NACC). Just over nineteen and a half percent (19.7%) of women and men with advanced HIV infection received antiretroviral therapy in the first 3 quarters of 2005." (UNGASS) [8a] (p26)

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

During 2006 the USSD reported that there continued to be "societal discrimination against homosexuals..." [4a] Sodomy Laws (Kenya) noted that "Sections 162 to 165 of the Penal Code criminalize homosexual behaviour and attempted homosexual behaviour between men, referring to it as "carnal knowledge against the order of nature". The penalty is 5 to 14 years' imprisonment. Lesbian relations are not mentioned in the law." [11a] However, in spite of the tough laws, News24 reported on 22 February 2006 that the laws were "rarely enforced". [9a] BBC News noted on 13 March 2006 that while sex between men is punishable with long prison sentences, a secretive gay scene had developed in certain pubs and clubs in Nairobi. (BBC News, 13 March 2006) [10a]

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3. Index to key source documents

(KB users - click source number to access document directly)

KEY FACTO AND	[10]	Foreign and Commonwoolth Office Country Profile: Konya
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	[2a]	Europa World Online, Economic Affairs (Date accessed 15 November 2007)
	[3a]	UNHCR, Kenya Administrative Map (As of 11 August 2004) http://www.unhcr.org/publ/PUBL/4125b5c84.pdf (Date accessed 30 October 2007)
	[3b]	UNHCR, Kenya Atlas Map (As of June 2005) http://www.unhcr.org/publ/PUBL/3dee2c910.pdf (Date accessed 30 October 2007)
	[4a]	United States Department of State, Country Report on Human Rights Practices – 2006: Kenya, March 2007 http://www.state.gov/g/drl/rls/hrrpt/2006/78740.htm (Date accessed 29 October 2007)
	[4c]	United States Department of State (USDOS), Background Note: Kenya, last updated October 2007 http://www.state.gov/r/pa/ei/bgn/2962.htm (Date accessed 29 October 2007)
	[6a]	Jane's Sentinel Security Assessments: Country Profile Kenya 2007. (Hard copy only)
	[10b]	British Broadcasting Corporation (BBC), Country Profile: Kenya, last updated on 1 August 2007 http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1024563.stm (Date accessed 29 October 2007)
	[15a]	World Organisation Against Torture: State Violence in Kenya, June 2005 http://www.omct.org/pdf/procedures/2005/s_violence_kenya_6_2005_eng.pdf (Date accessed 30 October 2007)
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	[27a]	The Institute for Security Studies (ISS), Africa Fact Files: Kenya http://www.issafrica.org/AF/profiles/kenya/index.htm (Date accessed 30 October 2007)
	[38a]	Kenyaweb.com, Kenya Government, http://kenyaweb.com/government/ (Date accessed 29 October 2007)

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	[30]	Central Intelligence Agency (CIA), USA, The World Factbook, Kenya, Last updated 1 November 2007 https://www.cia.gov/library/publications/the-world-factbook/geos/ke.htm/ Date accessed 15 November 2007
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	[27b]	The Institute for Security Studies (ISS), History and Politics: Kenya http://www.issafrica.org/AF/profiles/kenya/Politics.html (Date accessed 30 October 2007)
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	[5a]	Amnesty International (AI) report 2007: Kenya http://thereport.amnesty.org/eng/Regions/Africa/Kenya (Date accessed 30 October 2007)
	[10b]	British Broadcasting Corporation (BBC), Country Profile: Kenya, last updated on 1 August 2007 http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1024563.stm (Date accessed 29 October 2007)
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	[16a]	Freedom House, Freedom in the World 2006: Kenya http://www.freedomhouse.org/template.cfm?page=22&year=2006&country=6991 Date accessed 30 October 2007
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