



Kenya – Researched and compiled by the Refugee Documentation Centre of Ireland on 10 December 2013

Are/were there concerns regarding the safety/security of residents of Kibera, Kenya against attack by the Mungiki and/the police? Is the whole of Kenya (or what parts are) considered to be an area where there is serious threat to a civilian's life or person because of indiscriminate violence in a situation of international or internal armed conflict?

The Introduction to a submission to the UN Human Rights Council states:

“In Kenya, like in many other developing countries and emerging democracies, the challenges of insecurity are very real. The lack of technical capacity and resources to deal with crises of such magnitude by the security agencies including the National Security Intelligence Service (NSIS) is glaring. Intermittent emergence of organized criminal groups such as the Mungiki, Sabaot Land Defence Force among others, causing mayhem in various parts of the country has had many citizens questioning the capability of the State to ensure their security.” (UN Human Rights Council (2 June 2009) *Information submitted by the Kenya National Commission on Human Rights: Note by the Secretariat*, p.2)

This introduction further states:

“The challenges of insecurity in Kenya are real. Criminals and organized criminal gangs continue to pose a real threat to the enjoyment of fundamental rights in Kenya. Without regard to the right to life, crime in Kenya is increasingly violent occasioning loss of life and untold suffering in the hands of criminals. Criminal gangs levy ‘taxes’ in the slum and rural areas of Kenya, they extort hardworking citizens and coerce entrepreneurs to pay fees to guarantee their security.” (ibid, p.2)

An article from The Star states:

“Kibera slums in Nairobi is controlled by seven main criminal gangs which include Yes We Can, J-10, Kamkunji Pressure Group, Siafu, Kibera Battalion and Nubians. The gangs in Kibera usually do extortion, provide security, mobilise people to attend political rallies, resolve disputes, provide water and electricity illegally. In areas such as Mathare slums where the Mungiki and Taliban reign, confrontations are common as rival gangs fight for supremacy.” (The Star (10 September 2013) *Policymakers Turn to Research in Combating Crime*)

The Introduction to a report on the Mungiki published by the Landinfo Country of Origin Information Centre states:

“Several militant gangs and so-called vigilante movements operate throughout Kenya, particularly in urban environments and in Nairobi's large

slum areas. They operate outside the law in poor, crime-infested neighbourhoods where the police has little authority, influence and, basically, little interest. Different gangs have been and are at war with each other over control of businesses, services and people in disputed areas, amongst them the Taliban, the Kosovo boys, the Baghdad boys, Chinkororo, the Kalenjin Warriors and Mungiki. In 2002, the Kenyan government prohibited 18 such groups, the latter included. This report provides details on the Mungiki movement, the largest and best known of these organised, armed groups in Kenya. Mungiki operates primarily in the Nairobi slums, in the Central Province and in the Rift Valley. Although Mungiki offers poor residents in slum areas protection and social services, extortion and violence tend to constitute their mode of operation. Gross human rights violations perpetrated against civilians, adversaries and defecting members are attributed to them.” (Landinfo Country of Origin Information Centre (29 January 2010) *Kenya: Mungiki – Abusers or abused?*, p.5)

In a section titled “Mungiki Activities” this report states:

“Mungiki has been associated with a range of activities and services, ranging from sheer criminal activities to providing state-like social services. In particular, Mungiki has a strong presence in the slums of Nairobi, where it controls and charges for access to basic services such as electricity, water and sanitation. Mungiki operates protection brackets focusing on poor slum dwellers, small businesses and the transport sector in the city. They charge operators of matatus (minibuses) according to size for allowing the bus to operate on any route under Mungiki control. Tenants moving to or from Mungiki-controlled areas have to pay a fee to Mungiki in order to pass. Their modus operandi is mafia-like, and as mentioned, characterised by extortion and violence. Citizens who are unable or unwilling to pay, risk being kidnapped, tortured or even killed.” (ibid, p.10)

In a report to the UN Human Rights Council (section titled “Context”, paragraph 8) Special Rapporteur Philip Alston states:

“There are many such criminal groups, but the Mungiki have become particularly prominent. In many slums in and around Nairobi, there have historically been high levels of insecurity, and few state services. In the early 1990s, the Mungiki, initially a cultural-religious movement, began providing security and basic services in slums. While many of these activities were originally appreciated by slum residents, as the Mungiki grew, so did its level of control, and ruthless tactics were employed to preserve it. Today, the Mungiki are responsible for a large number of crimes, including murder. I spoke with many people who live and work in areas now controlled by the Mungiki. Residents and business owners are extorted for ‘protection’ fees. Matatu (bus) drivers are harassed on a daily basis. Those who resist organized criminal organizations are threatened, beaten or killed, often in an especially brutal manner, and residents are increasingly terrified of the progressively more violent criminal control of their neighborhoods.” (UN Human Rights Council (26 May 2009) *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston : addendum : mission to Kenya*, pp.7-8)

An Australian Government Refugee Review Tribunal country advice document, in a section titled “December 2007 Elections”, states:

“Following the election, ethnic groups that support Kibaki, particularly the Kikuyu, were targeted and attacked. Kikuyu reprisals against Odinga supporters, primarily the Luo and Kalenjin people, were widespread. Significant violence between Kikuyu and Luo groups occurred in major cities such as Nairobi and Kisumu, including the Nairobi slums of Kibera and Mathare. The Mungiki sect was reportedly sent to fight Luo people in these slums.” (Australian Government Refugee Review Tribunal (1 March 2011) *Kenya – KEN38226 – Luo – Kikuyu – Ethnic Violence – 2007 Elections – Mathare – Nairobi – Female Genital Mutilation – Mungiki – Single Women*, p.3)

An article from The Guardian, in a paragraph headed “Who is being targeted?”, states:

“Ethnic groups perceived as supporting Kibaki have been subjected to the bulk of the violence. Kibaki's own Kikuyu community has been worst hit, and it is the poorest people, who live in densely packed slums or multi-ethnic rural areas, that are being killed, robbed and displaced, rather than the wealthy elite close to Kibaki who control a large part of the economy and live in the Central province or smart parts of Nairobi. The Kisii, regarded as pro-government, have also been targeted in the Rift Valley province. At informal checkpoints, passengers are being asked to give their identity cards so their ethnicity can be determined. Reprisals by the Kikuyus, the largest of Kenya's 43 ethnic groups, were inevitable, and there are accounts of revenge attacks. The Mungiki, a much-feared Kikuyu criminal sect, are strongly rumoured to have been deployed in Nairobi's slums to fight back against the mainly Luo supporters of Odinga.” (The Guardian (29 January 2008) *Q&A: the Kenya crisis*)

A UN Human Rights Council report, in a section titled “Extrajudicial executions during the post-election violence” (paragraph 38), states:

“Impunity continues to prevail for extrajudicial killing that occurred in the aftermath of the 27 December 2007 elections. History seems to be repeating itself: officials are yet to be brought to account for the 1992 and 1997 election-related violence despite reports which documented the violence and named perpetrators. There seems to be an established pattern of non-accountability for killings which occur during pre- and post-electoral violence.” (UN Human Rights Council (26 April 2011) *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions : Addendum, Follow-up country recommendations – Kenya*, p.10)

The concluding paragraph (paragraph 58) of this report states:

“Impunity for killings has become entrenched. There is an obvious reluctance on the part of Government for meaningful mechanisms to ensure accountability for killings which occurred during the post-election violence and killings at Mount Elgon. Extrajudicial killings by the police remain pervasive, the excessive use of force by the police continues unaddressed; most of the killings are not investigated and prosecuted. Intimidation of human rights defenders, especially those working in the area of extrajudicial executions, remains unaddressed.” (ibid, p.14)

The Summary of a Human Rights Watch report states:

“The dynamics and risks differ in each region of the country. For example, in Coast the government is facing a secessionist group opposed to the elections as well as a violent inter-ethnic conflict. In Nyanza and Central powerful criminal groups and armed gangs are backing politicians. In North Eastern government security forces have stoked tensions by using excessive force against local residents, especially after attacks by armed groups on the police and military.” (Human Rights Watch (8 February 2013) *High Stakes: Political Violence and the 2013 Elections in Kenya*, p.1)

This section of the report also states:

“The common theme, however, is the unwillingness of the government and other state authorities since the post-election violence of 2007-2008 to address the root causes of violence, reform the police, tackle official corruption, disband criminal groups, resettle displaced persons, and hold accountable the many perpetrators of violence. The near total impunity for the murders, rapes, and forced displacement in 2007-2008 has left the people who committed those crimes free to commit them again.” (ibid, p.1)

Referring to the Central region this report states:

“In Central Kenya, a traditionally Kikuyu area, the key danger stems from candidates and their parties using criminal groups and armed gangs to silence opponents and rally support. As with previous elections, politicians seem to have hired gangs, including the violent Mungiki, to intimidate voters. Police have taken no effective action against these illegal groups despite the passage of a law in 2010 to respond to the threat of armed gangs.” (ibid, p.4)

Referring to the Nyanza region this report states:

“Nyanza region in western Kenya was one of the areas hardest hit by violence in 2007-2008, with about 115 people killed, more than 90 percent of them by the police, according to the Commission of Inquiry into Post-Election Violence (CIPEV, also known as the Waki Commission after its president, Justice Philip Waki). Nyanza has historically witnessed high levels of political violence, with partisan youth in Kisumu city playing a major role. In recent years Nyanza has been dominated by different criminal gangs, including the Baghdad Boys, Sungu Sungu, American Marine, and China Group. For the most part the police have failed to prevent these armed groups from committing crimes, and some police are accused of collaborating with them. The gangs are also allied with politicians: American Marine based in Kisumu apparently supports Prime Minister Raila Odinga and China Group appears to support Uhuru Kenyatta and William Ruto. Violence erupted between the two gangs in September 2012 after a visit to Nyanza by Deputy Prime Minister Kenyatta, and the police failed to intervene. In October 2012 the murder by unknown suspects of a candidate from Odinga’s Orange Democratic Movement (ODM) sparked riots. This time the police intervened, and their apparent use of excessive force left eight people dead. Four of the eight died while hiding from police in a container; three witnesses told Human Rights Watch that the police locked the container door and fired tear gas inside, causing a fire.” (ibid, pp.7-8)

In a section titled “Background” this report states:

“Armed gangs and criminal groups continue to operate in Central Kenya, Nyanza, Nairobi, Coast, the Rift Valley, and parts of North Eastern region, despite the government’s promise in 2008 to use legal means to disarm and disband them before the 2013 elections. The likelihood exists that politicians may hire these groups to wreak havoc around this year’s elections. The government’s approach to policing these armed groups creates the impression that it is selectively dealing with some gangs and tolerating others. Even where security forces have responded to armed groups, their actions have been marred by human rights violations.” (ibid, p.16)

A section titled “Mungiki, Militias, Gangs and Voter Intimidation” states:

“Residents of Central region told Human Rights Watch how politicians running for office are using local gangs and militias, including the violent Mungiki to intimidate voters. A farmer in Kagumo explained how it works in his community:

These gangs get paid by politicians. They move from door to door asking people to support one candidate. We do not argue with them. We just agree with what they say because arguing with them can cost you a life or that of your family members.

A businesswoman in Mathira also said gangs had tried to influence her vote. “What we see the gangs doing is they come to ask us to vote for a particular politician and if you don’t agree with them they threaten your life,” she said.” (ibid, p.46)

An Amnesty International report, in a section titled “ ‘Tana’: Failure to Protect” (section 6.2), refers to the situation in the Tana Delta as follows:

“Violence in the Tana Delta has led to the deaths of over 200 people and displacement of 112,000 others since August 2012. Despite the subsequent deployment of over 2,000 police officers in the Tana Delta and the creation of a Judicial Commission of Inquiry, the security forces have been unable to stem or prevent repeated attacks and counterattacks, as recently as January 2013, raising serious concerns about the security forces’ response to the situation and their ability to protect the human rights of people in Tana. Violence beginning in August and September 2012 was the culmination of smaller scale violence between the Pokomo and Orma communities, which had resulting in deaths, casualties and lost livestock on the part of both communities. Initial attacks in August and September left over 100 people dead, including nine police officers. Attacks have continued to take place since the initial outbreak, as recently as January 2013.” (Amnesty International (30 January 2013) *Police Reform in Kenya: “A Drop in the Ocean”*, p.21)

In a section titled “ ‘Baragoi’: Failing Internal and External Accountability” (section 6.4.) this report states:

“Baragoi is an arid area, inhabited by the Samburu and Turkana ethnic communities. There is frequent cattle rustling amongst the two communities, which over the years is reported to have grown increasingly violent, with

better-armed youth gangs causing ever more casualties. In early October 2012, incidents of raiding between the communities escalated and the decision was taken to mount a police operation into the Suguta valley. On 10 November 2012, the police operation was attacked and approximately 42 officers were killed and several others wounded.” (ibid, pp.22-23)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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