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Kenya: End interference with civil society, ensure peaceful electoral process

With presidential election result disputed, Kenya must ensure a peaceful electoral process by allowing civil society to work unhampered.

New York/The Hague—Interference with civil society organizations and activists following Kenya's 2017 presidential election must be brought to an immediate end, the Coalition for the International Criminal Court said today.

On 16 August, reports emerged that the Kenya Revenue Authority (KRA), the national NGO regulator, had circulated a letter on social media purporting to de-register the civil society organizations the Kenya National Human Rights Commission (KHRC) and the African Centre for Open Governance (AfriCOG). Both groups insist they are in full compliance of all relevant laws and regulations. The Cabinet Secretary for Interior has since reversed the order banning the KHRC and instituted a process meant to achieve an amicable resolution with the regulatory authorities.

"The intimidation of civil society in Kenya must immediately stop," said **Jelena Pia-Comella, deputy executive director of the Coalition for the International Criminal Court**. "The Kenyan government is responsible for the safety of all its citizens, particularly in this time of post-election volatility. Ensuring non-violence and an environment that allows civil society to exercise the freedom of speech, association, and assembly is vital."

KHRC and AfriCOG have been advocating for a fair and transparent electoral process based on accountability, integrity and good governance, both in the lead-up to and following the 8 August presidential elections, in which incumbent candidate Uhuru Kenyatta was declared the winner with 54% of the vote.

"Over the past four years, the KHRC has come under intense scrutiny on account of our work to address human rights violations in Kenya. We have faced false accusations of financial impropriety including tax evasion, supporting terrorism and employing foreigners without work permits," said **George Kegoro, executive director of the KHRC**. "The harassment we face coincides with key developments in Kenyan society including the cases at the International Criminal Court that implicated key state officials including the presidency, counter-terrorism operations that failed to live up to constitutional provisions, and the General Elections of 2017. The timing of these attacks, their publicized nature, and their lack of legal or constitutional standing, expose them to be as a smear campaign and an attempt by the government of Kenya to disrupt the work that the Kenya Human Rights Commission does."

The Observatory for the Protection of Human Rights Defenders (an International Federation

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for Human Rights (FIDH)-Observatory for the Protection of Human Rights Defenders partnership), denounced the raids as a retaliation against the involvement of both organizations in monitoring the elections.

“The KHRC has been at the frontline of human rights work in Kenya. There is no doubt that this is a retaliation of their human rights monitoring of the elections. This is a shameful move that calls again into question the role of the NGO coordination board and the need to urgently implement the public benefit organization (PBP) Act as adopted in 2013,” **said Alice Mogwe, FIDH Vice-President.**

Opposition candidate Raila Odinga has refused to accept the election result and has announced he will launch a court challenge to the outcome. UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein, EU High Representative Federica Mogherini and former UN Secretary General Kofi Annan were among those urging counter-claims to the result to be contested through constitutional and legal means.

At least 17 dead and have been 177 injured in clashes since the 8 August election. There have also been reports of post-election police brutality, with live ammunition being used against protesters. Tensions in Kenya have been building up in the months ahead of the election, with allegations that human rights defenders, justice advocates, journalists, and bloggers were targeted. Elections official Chris Msando was found dead with signs of torture prior to the election.

Following widespread violence in the aftermath of the 2007 disputed elections, the International Criminal Court Prosecutor was asked to open an investigation into alleged crimes against humanity. All cases were eventually dropped amid claims of witness interference. Violence related to the most recent election is not covered by the scope of the existing ICC investigation.

The Coalition continues to underline the need for a genuine domestic accountability for deaths and violence related to the 2007 elections, as well as greater protection for rights defenders.

Government interference with the work of civil society organizations, including those working for accountability for grave human rights abuse through the ICC system, is increasing around the world. Earlier this year, interventions at the African Court of Human and People’s Rights on behalf of human rights defenders in Africa decried, among other violations, the disbarment of representatives of the Burundian Coalition for the ICC after speaking out about their state before the UN Committee Against Torture. NGOs in Turkey have also recently been subject to arbitrary detention and judicial harassment.

About the ICC

The ICC is the world’s first permanent international court to have jurisdiction over war crimes, crimes against humanity, and genocide. Central to the Court’s mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes. As one



of the most historic advances in the protection of global human rights, the innovative system established by the Rome Statute is designed to punish perpetrators, bring justice to victims and contribute to stable, peaceful societies. The Court has already made significant progress in holding those most responsible for atrocities to account. Victims are already receiving help to rebuild their lives. But global access to justice remains uneven, and many governments continue to deny the ICC jurisdiction where it is most needed.

About us

The Coalition for the ICC is a network of 2,500 civil society organizations, small and big, in 150 countries fighting for global justice for war crimes, crimes against humanity and genocide for over 20 years. We made international justice happen; now we're making it work.

<http://www.coalitionfortheicc.org/>

Experts from human rights organizations members of the Coalition are available for background information and comment. Contact: communications@coalitionfortheicc.org

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