

Carter Center Calls for Dialogue and National Reconciliation to End Kenya's Protracted Political Impasse

Kenya's Oct. 26 presidential elections, scheduled following the Supreme Court's annulment of the Aug. 8 race, unfolded in a context of heightened tensions stemming from the protracted electoral process, confrontational tactics and harsh verbal attacks by key political leaders, and outbursts of violence around election day. These problems severely undermined the ability of Kenya's electoral administration to implement the fresh presidential elections. Rather than consolidating support for a national political program, the election served to polarize the country and exposed the deep tribal and ethnic rifts that have longed characterized its politics. Incidents of violence and insecurity have harmed the country's economy and democratic processes. While legal challenges to the Oct. 26 election are still pending, The Carter Center urges Kenya's political leaders to engage in constructive dialogue to bridge the growing gap between the opposition and ruling parties, and their respective supporters.

Kenya's fresh presidential election was marked by insecurity, political uncertainty, and the lack of the Independent Electoral and Boundaries Commission (IEBC) and the judiciary, and dimming the prospects for a successful election. These actions were a disservice to the Kenyan people and their democratic rights and aspirations.

Despite the substantial efforts of the IEBC to adopt reforms following the Supreme Court's ruling and to meet the demands placed upon it by the opposition, presidential challenger Raila Odinga withdrew from the election on Oct. 10, arguing that the electoral reforms were insufficient and that there was an uneven playing field. He called for his supporters to boycott the polls. Six challengers from the August polls (who collectively garnered less than 0.89 percent of that vote) were added by court order to the ballot weeks before election day.

Following several attempts to postpone the elections through court action, the polls moved forward in a tense and polarized environment on Oct. 26. Polling was postponed in some opposition strongholds due to disruptions on election day, and fears of further attacks created an insecure

The Carter Center emphasizes that the credibility of an election rests not only on the technical aspects of its conduct but also on respect for fundamental rights and freedoms in a conducive political and security environment. Every democratic exercise comprises numerous institutions and actors throughout the pre-election, election-day, and post-election periods, all of which affect the transparency, inclusiveness, accountability, and competitiveness of the election.

Regrettably, the actions of Kenya's political leaders served to weaken its democratic and independent institutions, constrain the ability of citizens to participate in the civic affairs of their country, and damage the nation's democratic development. Kenya is in dire need of dialogue and reconciliation. Though both

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- x **Security and Violence.** The pre-election period saw significant insecurity and instances of violence. In Nyanza and Nairobi regions, protests against the Oct. 26 election turned violent after youth clashed with security forces. The government security forces retaliated with the use of live ammunition and excessive force, leading to at least six dead and scores injured. The violence in the Nyanza region spread to attacks on IEBC training staff, which forced the IEBC to postpone or cancel training in some areas. This led to the arrest of politicians from the region.⁵ It also contributed to the postponement of elections in four counties – Kisumu, Homa Bay, Migori and Siaya.

The charged campaign environment, coupled with the violent protests and excessive use of force by security,

x **Election Day – Voting and Counting.** As noted above, The Carter Center deployed a limited observation mission on election day and did not conduct an in-depth assessment of voting, counting, and tabulation procedures. The observers visited 79 polling stations during the voting phase and reported that the process passed with no major irregularities observed. Turnout was noted as significantly lower than for the Aug. 8 elections. Closing and counting procedures were generally followed in the polling stations visited, and counting was completed in a swift and orderly manner with no interference or pressure from any actor. Polling stations results forms (34As) were successfully transmitted, and no official complaints were lodged in the polling stations observed.

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justice of the Supreme Court issued a statement condemning these actions and called on all political actors to respect the independence of the judiciary. On the day preceding the elections, the Supreme Court failed to reach a quorum and thus was unable to hear a critical petition seeking postponement of polls. While the facts are unclear, there are concerns that the lack of a quorum was the result of external pressure and political interference on members of the court. These developments were deeply troubling and suggest the potential for future interference in the independence of the judiciary.

- x **Voter Education:** Although the IEBC redeployed voter education staff for the Oct. 26 election, with topics covering the Supreme Court ruling and the voting process, Carter Center observers reported seeing few such activities. In some NASA strongholds, voter educators found it challenging to conduct their work for fear of being seen to be advocating for the Oct. 26 election. Voter education efforts were significantly less than for Aug. 8, and those efforts were themselves limited.

- x **Civil Society and Citizen Observation:** Carter Center long-term observers reported a significantly reduced presence of domestic CSOs in the several weeks prior to the Oct. 26 election, in comparison with the Aug. 8 election. Fewer voter education and peacebuilding programs were observed, though local and religious leaders promoted peace messaging in community and faith gatherings.

The Elections Observation Group (ELOG) deployed over 2,196 observers in 215 of the 290 constituencies for election day, releasing periodic reports of their findings. The group was unable to deploy observers in all parts of the country because of security concerns. They were barred from polling stations in Kibra, Ruaraka, and Nyali. ELOG observers were attacked in Kilifi, Kibra, Ruaraka, and Nyali constituencies. ELOG found that the presidential rerun election “considerably amplified the divisions in Kenya’s society and body politic.”

The Kenya National Commission on Human Rights (KNCHR) maintained 139 monitors across the country through the Oct. 26 election to gather information about election-related human rights violations. They called on security forces to refrain from excessive use of force, on the IEBC to ensure the safety of its poll workers, and on political parties to ensure their supporters protested lawfully and peacefully. The KNCHR also called attention to the government’s efforts to clamp down on civil society actors.

Background:

The Carter Center has had a core team of experts in Kenya since April, monitoring key parts of the electoral process, including voter registration, campaigning, electoral preparations, and the recent resolution of disputes in the courts. That team was joined by a large group of observers who

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observers rejoined the core team on Oct. 4 and were deployed to various locations in the country to observe critical pre- and post-election processes.

Because of insecurity surrounding the polls, the uncertain political environment, and the lack of a fully competitive election, the Carter Center deployed only a limited election observation mission to assess the Oct. 26 polls, with 10 long-term observers and a small team of election experts. The team was limited in size and geographic scope and therefore did not have a representative sample. Given these factors, the Center did not conduct a robust assessment of polling station level processes on election day.

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