

Run up to Kenya's 2013 General Elections: Justice is Key to Ensure that History of Election Related Violence does Not Repeat Itself FIDH February 19 2013

The pre-electoral context in Kenya is to a large extent dominated by the political, institutional or diplomatic implications of the International Criminal Court (ICC) proceedings against Presidential candidate Uhuru Kenyatta and his running-mate William Ruto. While, on February 15, 2013, Kenya High Court rendered a decision authorising both candidates to run despite the charges pending against them before the ICC, FIDH and KHRC recall that this decision does not clear them from ICC prosecutions, and urge all political aspirants to replace victims' rights to justice and reparation at the very center of their campaigns. Besides, while security concerns are already casting doubt on voters' ability to exercise their right without fear of intimidation and violence, our organisations further call on all candidates to ensure that peace and security will be guaranteed during the polls.

On March 4th 2013, 14.3 million Kenyans are expected to vote for their next President and other State representatives. These elections are regarded as one of the most significant event in the history of this country. Significant, because they will be the very first to be held since the 2007/2008 post election violence, when, within a seven week period following the polls, and as a direct consequence of the contested results, thousands of civilians were victims of serious crimes, including killings, sexual and gender based violence, forced internal displacements, destruction of properties. Significant also because these elections will be the very first to be organised under Kenya's 2010 Constitution, which provides for safeguards against unfair, insecure, corrupted, non transparent or inefficiently administrated elections. (...)

Beyond being historic, these elections are also quite unique: one of the presidential candidates, Uhuru Kenyatta, and his running-mate, William Ruto, are both facing charges, by the International Criminal Court (ICC), of crimes against humanity in relation to the 2007/2008 post election violence. Their trial before the ICC is to open on 10th and 11th of April respectively. This element has singularly shaped the nature of the pre-electoral context which is to a large extent dominated by the implications of the ICC proceedings on the campaign, leading some to describe the upcoming polls as a "referendum against or for the ICC".

While the legality of both Kenyatta and Ruto's candidacies has been challenged by KHRC and others, on the basis of Chapter Six of the Constitution relating to leadership and integrity of State officers, in a decision rendered last Friday, Kenya High Court decided to dismiss the case considering that it had no jurisdiction to hear matters on qualification or disqualification of presidential candidates. The Court further decided to award the costs to the Respondents.(...)

FIDH and KHRC recall that the 2007/2008 post elections crimes have to a large extent remained unpunished, Kenya having failed to bring to justice those responsible. This rampant impunity is of serious concern in a pre-electoral context already marked by political parties and alliances' mobilisation of the population along ethnic lines, the re-activation or creation of illegal gangs and militia groups in particular in areas severely affected by the 2007/2008 post elections violence, cases of civilians arming themselves as a preventive measure, the use of hate speech or inflammatory coded language by politicians, vernacular radio stations as well as through social media : in other words, all the ingredients that led to the 2007/2008 violence.

Within the course of their respective campaigns, all political aspirants, from Presidential to County Governors candidates, must publicly call on their supporters to refrain from committing any act of violence during elections and remind them that such violence could lead to prosecutions. Besides, instead of only using the ICC proceedings as a campaign argument against or in favour of Uhuru Kenyatta and William Ruto, all political aspirants must show their public support to all victims of the 2007/2008 post election violence and commit to bring to justice those responsible. (...) **See the full article [here](#) .**