

Policy brief: Kenya After the Elections International Crisis Group 15 May 2013 Kenyan democracy was severely tested in the lead-up to, during and after the 4 March 2013 elections. On 9 March, following a tense but relatively peaceful election, the Independent Electoral and Boundaries Commission (IEBC) declared Jubilee Coalition's Uhuru Kenyatta president-elect. He garnered 50.07 per cent of the vote – barely passing the threshold for a first round victory. His closest opponent, former Prime Minister Raila Odinga, challenged his victory in court, but despite allegations of irregularities and technical failures, the Supreme Court validated the election. Although Odinga accepted the ruling, his party and several civil society organisations questioned the election's shortcomings and its impact on democracy. President Kenyatta and his deputy, William Ruto, will have to restore confidence in the electoral process and show robust commitment to the implementation of the new constitution, in particular to devolution, land reform, the fight against corruption and national reconciliation. Failure to do so risks further polarising the country and alienating the international community.

Despite some clashes preceding the vote, and following the court's decision, the nation avoided a repeat of the 2007-2008 post-election violence. A number of factors contributed to a predominantly peaceful election, including a general consensus between the political elite and the citizenry

not

to bring Kenya to the brink of civil war again. International pressure, in particular from the current International Criminal Court (ICC) cases, media self-censorship, restrictions on freedom of assembly, and deployment of security forces to potential hotspots also helped avert unrest. In addition, Kenya's citizens took pre-emptive action by returning to ethnic homelands to vote, with vulnerable groups vacating areas of past communal violence.

However, a number of vital, more overarching reforms addressing systemic and structural conflict drivers – a culture of impunity, high unemployment, land reform, resettlement of internally displaced persons (IDPs), ethnic tensions, weak institutions and regional and socio-economic inequality – have yet to be implemented. Accountability for the 2007-2008 post-election violence remains largely unaddressed. It now rests with the ICC with charges against three (of the original six) suspects still pending, including prosecutions of the newly elected president and deputy president. Kenyatta and Ruto deny the allegations against them and have publicly committed to cooperate with the court. Yet in early May, Kenya's permanent representative to the UN submitted a brief to the Security Council seeking to have the case terminated, a move that was subsequently rejected by Ruto and the attorney general but follows a history of government challenges to the court. (...)

As Kenya moves forward under a Jubilee government, focus will be on implementing the constitution, ensuring the smooth transition to devolved government and bringing justice to the victims of the 2007-2008 post-election violence. To ensure political stability, economic growth and mutually beneficial foreign relations, President Kenyatta's government, with the support of regional and international partners, will need to:

- cement peace and reconciliation initiatives and continue to seek justice for post-election violence victims through continued cooperation with the ICC; and
- maintain progressive relationships with regional and international partners to ensure the achievements of the Grand Coalition Government, established in 2008, are preserved and built upon, and that Kenya's ambitious socio-economic goals are achieved.

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