Kenya

On August 8, Kenya’s electoral commission declared incumbent President Uhuru Kenyatta winner for a second term, amid opposition and civil society claims of fraud. The elections were marred by excessive use of force against residents, especially in opposition strongholds in Nairobi, the coast and western Kenya.

On September 1, the Supreme Court nullified the election after the leading opposition candidate Raila Odinga of the National Super Alliance (NASA) successfully challenged the results. The ruling Jubilee party responded to the court decision with threats and intimidation of the Supreme Court Judges and moved to change elections laws in a bid to weaken accountability measures for election offences. A fresh election was held on October 26, from which Odinga withdrew and Kenyatta was declared the winner, with the court dismissing all petitions challenging his win.

Impunity for abuses committed during the country’s 2007-2008 post-election violence (PEV) persists, after the International Criminal Court (ICC) dropped cases against Kenyatta, his deputy William Ruto, and four others. The government has yet to develop a plan to implement a reparations fund it established in 2015 to support the PEV victims. Although it has taken steps to help some victims from the 2007 political violence such as internally displaced persons (IDPs), the government has not assisted rape survivors who still need medical treatment and financial help. Three men wanted by the ICC since 2013 and 2015 for witness interference in one of the cases have yet to be surrendered. Challenges to the arrest warrants or surrender are pending in Kenyan courts.

Dropping water levels in Kenya’s Lake Turkana following the development of dams and plantations in Ethiopia’s lower Omo Valley threaten the livelihoods of half-a-million indigenous people in Ethiopia and Kenya.
Security Forces Abuses

Kenyan and international human rights organizations documented a range of rights abuses by the security forces in military and law enforcement operations between 2016 and 2017 across the country. In Laikipia county of the Rift Valley, where herders looking for pasture for their livestock are in conflict with private ranch owners, Human Rights Watch found in June 2017 that police and the military were implicated in beating and killing herders and their livestock from the Pokot community.

Police killings in Mathare and other informal settlements in Nairobi such as Dandora, Kayole, Huruma, Eastleigh, Kibera, and Kariobangi have not been investigated. In May 2017, a report by Mathare Social Justice Center, a community based human rights organization, found that between 2016 and 2017 alone, police had extrajudicially killed at least 57 young men and women.

Kenyan security forces have also been implicated in serious human rights violations, including extrajudicial killings, enforced disappearances of those suspected of links to Al-Shabab, the Somalia based Islamist armed group, and abusive policing operations mostly targeting Kenyan and non Kenyan Somalis and Muslims. In a letter to President Uhuru Kenyatta in December 2016, Kenyan and international human rights organizations, including Human Rights Watch, called for a commission of inquiry into these killings and disappearances. The president had not responded at time of writing.

Security Forces Abuses During Elections

Both the August and October 2017 elections were marred by serious human rights abuses. In early August, a technology manager with the electoral commission, Chris Musando, was abducted and his body found two days later on the outskirts of Nairobi. The opposition alliance, NASA, said the killing was a step toward manipulating polling technology and the tallying of results.

During and after the August 8 polling, Kenyan police and other security agencies used excessive force against protesters, primarily in opposition strongholds. The protests erupted following allegations by Raila Odinga that the August 2017 elections had been rigged.
Police also carried out violent house to house operations, beating or shooting primarily male residents, even though they also beat female residents for failing to produce the males suspected of participating in demonstrations. At least 67 people were shot or beaten to death by police nationwide, and hundreds more were injured during these operations. There were troubling reports of rape and sexual harassment during police operations in Kisumu and Nairobi. At time of writing, the Independent Policing Oversight Authority (IPOA) was investigating just about six of the cases of killings.

Freedom of Expression and Media

Over the past five years, Kenyan authorities have used legal, administrative, and informal measures to restrict media. In the lead up to the 2017 elections, journalists and bloggers reporting on sensitive issues such as land, corruption, and security faced threats, intimidation, arbitrary arrests, and physical assaults.

At least two Kenyan journalists were arrested before and after the August elections. On June 18, police officers arrested Daily Nation journalist Walter Menya and released him without charge after two days. Police alleged Menya had solicited for a bribe, but the Nation Media Group argued that he was being targeted for reporting how government officials flouted election campaign laws with impunity.

On August 12, police arrested two television journalists, Duncan Khaemba, and Otieno Willis, whom they wrongly suspected of wearing bullet-proof vests without relevant approval documents. The arrests appear to have been designed to obstruct their work in covering police abuses.

In May, Human Rights Watch documented at least 50 cases of journalists and bloggers who faced a range of abuses in the last three years across Kenya, including beatings and threats. At least two journalists were killed by unknown people in the past two years. In some cases, Kenyan authorities have withdrawn advertisements or withheld payment to media houses in a bid to pressure individual media outlets to stop criticism of the government.
Despite receiving formal complaints from journalists and bloggers, police have rarely investigated the attacks or threats and perpetrators have rarely been held to account.

**Threats to Civil Society**

NGOs working on a range of issues, particularly accountability, security forces abuses, and elections, continue to face hostile rhetoric and restrictions, including threats of closure by authorities.

In December 2016, Kenyan authorities suspended a civic education program, "Kenya Electoral Assistance program, KEAP 2017," worth US$20 million that was funded by USAID and being implemented by International Foundation for Electoral Systems (IFES). The NGO regulatory body, the NGO Board accused IFES of not being duly registered. IFES denied the accusation, but halted the implementation of the program.

On August 14, the NGO Board announced the cancellation of the registration of the Kenya Human Rights Commission (KHRC)—one of the oldest human rights groups in Kenya—citing alleged tax evasion and other reasons, but the cabinet secretary for interior suspended the move. On August 16, police and Kenya Revenue Authority (KRA) officials visited the offices of another NGO, AfriCOG, which focuses on governance issues and had challenged the 2013 elections in which Kenyatta was declared winner, but were successfully resisted by AfriCOG’s lawyers.

In November, the NGO Board summoned Inuka Kenya, Katiba Institute and Muslims for Human Rights (MUHURI) over, among other allegations, lacking proper registration documents. The officials of these organizations said they believed the threats to deregister them were aimed at stopping them from challenging the August election results in court.

**Refugee Rights**

In February, the High Court of Kenya stopped the government order to shut down Daadab refugee camp, home to 240,000 mainly Somali refugees. The number of refugees in the camp had fallen by half, from about 465,000 living there in 2011, as a result of government threats of closure and significant cuts in services and food rations by the UN Refugee
Agency, UNHCR. About 32,000 returned to Somalia in 2017. Kenyan authorities said in May 2016 they would close the camp and forcefully return Somali refugees, accusing Somali refugees of harboring terrorists and disbanded the department of refugee affairs, which is responsible for registration of new refugees.

In January, human rights lawyer, Samuel Dong Luak, and his colleague, Aggrey Idris, were abducted by unknown people in Nairobi and are suspected to have been forcibly returned to South Sudan where they were at risk of being tortured or persecuted. Kenyan government failed to prevent or even investigate these and other abductions and forcible return of South Sudanese refugees and human rights defenders to South Sudan.

**Sexual Orientation and Gender Identity**

Constitutional challenges regarding Kenya's anti-homosexuality laws and the use of forced anal examinations remained pending before the courts. The Kenya Medical Association condemned forced anal exams. The attorney general established a task force in May 2017 to study policy reforms regarding intersex persons.

**Key International Actors**

Kenya remains a regional hub in the global counterterrorism efforts largely supported by the United States, United Kingdom, European Union, and the United Nations.

Kenya is a troop contributor to the African Mission to Somalia (AMISOM) and the UN peacekeeping mission in South Sudan (UNMISS). In November, the UN sacked the Kenyan peace keeping force commander for the mission, prompting Kenya to withdraw all its troops. In January 2017, Kenya agreed to redeploy troops following negotiations between President Kenyatta and UN Secretary-General Antonio Guterres in Addis Ababa, Ethiopia.

The international community deployed significant resources to observe the August 2017 elections and to assess the potential for violence and human rights violations. The African Union, EU, Commonwealth, and two US organizations, National Democratic Institute (NDI), and The Carter Cente monitored the August elections, but significantly scaled down during the October 26 repeat election.
Observers and the international community in general were more guarded in their endorsement of the October 26 election than they were in the August election, and did not congratulate Kenyatta for winning the October poll. Despite concerns about the credibility of the August elections, the US and UK missions urged the opposition to accept the outcome and concede defeat. The Office of the UN High Commissioner for Human Rights (OHCHR) deployed human rights monitors in parts of Kenya during both elections and urged restraint by security forces.