



Press Release
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Kenyan Civil Society Group files case challenging Election Process

Members of Kenya's civil society filed a case in the Supreme Court today, challenging the legitimacy of the March 4th 2013 General Election.

“Our case is not about who's won, but how the public has lost – we lost the promise of a transparent, accurate and effective process,” said Gladwell Otieno, Executive Director of Africa Centre for Open Governance (AfriCOG) who filed the case. Otieno spearheads the Kenyans for Peace, Truth and Justice (KPTJ) coalition, which includes members and individuals from Kenya's civil society.

The case concentrates on the election process rather than the presidential results. Otieno said the principle concern of the action is to protect the Constitution and safeguard the future of democratic elections in Kenya.

After suffering unprecedented violence around the disputed presidential elections of 2007-8, Kenya spent millions of dollars creating a new electoral board and a new electoral system, the Independent Electoral and Boundaries Commission (IEBC). The IEBC was allocated KS 24.9 billion, approximately US\$ 290 million, to introduce a system that guaranteed verification and transparency. Donors put millions into the IEBC as well. This means Kenya cannot brush aside such a massive and expensive project without taking an honest look at its effectiveness and impact. KPTJ calls on donors to support this case as a means to help future confidence in expenditure and accountability, democracy, and the development of Kenya.

The Independent Electoral and Boundaries Commission was equipped with internationally procured, tried-and-tested technology, to comply with the post-crisis recommendations, and the demands of the new Constitution. The Constitution explicitly demands that IEBC ensure that “whatever voting method is used, the system is simple, accurate, verifiable, secure, accountable and transparent (Chapter 7 Part 1, no 86 (a)). But when the polling stations opened on March 4th, the IEBC said the Electronic Voter Identification (EVI) system had failed to function countrywide and instructed the Presiding Officers to use manual registers. On March 6th, the IEBC then declared it was also abandoning the electronic transmission system, and reverted to manual tallying. There was tension in the country as a catalogue of numerical and procedural errors delayed the results and undermined public confidence.

The group is petitioning the Supreme Court on the basis that the election process was irredeemably flawed, and should be nullified.

“We have a newly-minted election body that has failed the test. The elections were eventually conducted in the same way as the 2007 elections, even though the IEBC was constituted to do it differently,” said Maina Kiai, human rights activist and UN Special Rapporteur for Freedom of Assembly and Association.

“We are courting serious disaster. A fair election process is the only way people in this country have a peaceful right to change governments and express their choices in a fair and transparent way. Otherwise, people will stop trusting elections and resort to other means,” he said.

KPTJ said it welcomed the calm and patient participation of the Kenyan people in the election. It is calling on public support for the case as an investment in a peaceful future. The group cautioned that peace is not just the absence of conflict and violence: truth and justice are critical for real peace.

KTPJ said the actions of the IEBC threaten future elections, and yet it had offered no credible or detailed explanations on the technological failure, the numerical errors, or the chaotic scenes at the polling stations.

“Billions were spent on making a difference. Those billions have been lost. But the cost of compromising democracy in Kenya is incalculable,” said Otieno.

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