

MAINTAINING MOMENTUM IN THE SAHEL

By Dr. Ashley N. Bybee

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Dr. Ashley Neese Bybee is a Research Staff Member in the Africa Program at the Institute for Defense Analyses.



In this image provided by the U.S. Air Force, a U.S. Army carry team transfers the remains of Army Staff Sgt. Dustin Wright of Lyons, Georgia, Thursday, October 5, 2017, upon arrival at Dover Air Force Base, Delaware. Wright, 29, was one of four U.S. troops and four Niger forces killed in an ambush by dozens of Islamic extremists on a joint patrol of American and Niger Force. (Source: Staff Sgt. Aaron J. Jenne/U.S. Air Force via AP)

KENYA ENTERS UNCHARTED TERRITORY

By Sarah Graveline

Kenyan politics have entered an unprecedented time of uncertainty in the wake of the August 8, 2017, general elections. On September 1, Kenya's Supreme Court [nullified](#) the presidential election results and determined that a fresh poll should be held by the end of October. On October 10, lead opposition candidate Raila Odinga [announced](#) his withdrawal from the race, generating uncertainty about whether and how to hold the vote. While Kenyan courts will determine how the poll will proceed following Odinga's withdrawal, Odinga has called his supporters to the streets to demand changes to electoral processes. Although the tenuous situation increases the risk of violence, the moment also presents a unique opportunity for Kenyans to set new precedents for holding their political institutions to a higher standard. [more...](#)

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In this Sunday Aug. 13, 2017 file photo, Kenyan opposition leader Raila Odinga addresses thousands of supporters gathered in the Mathare area of Nairobi, Kenya. It was his legal challenge that led the court to nullify the August 8 election that President Uhuru Kenyatta won. (Source: AP Photo/Ben Curtis, file.)

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IDA's Africa team focuses on issues related to political, economic, and social stability and security on the continent.

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Background

On October 4, 2017, four U.S. soldiers from the 3rd Special Forces group were [killed](#) in southwest Niger while accompanying Nigerien counterparts on a patrol in the dangerous Tillabery region. This area, where Niger, Mali, and Burkina Faso meet, has become a hotbed for extremist militancy. *Africa Watch* previously reported a significant [uptick in insecurity](#) and numerous attacks on security forces in the subregion since October 2016. In response to heightened insecurity, the three countries formed a regional joint force under the purview of the Liptako-Gourma Authority. With the addition of Mauritania and Chad, this effort became the [Group of Five Sahel Joint Force](#) (known by its French acronym FC-G5S, for “Force Conjointe du G5 Sahel”), with the mission of countering transnational organized crime by VEOs in the region.

East of Niger are Chad, Nigeria, and Cameroon, situated in a region known as the Lake Chad Basin (LCB). This region has also seen a rise in insecurity in recent years, most commonly associated with the activities of Boko Haram, which is based in northeastern Nigeria. In [2009](#), Boko Haram began its insurgency, which has claimed approximately 20,000 lives and forced more than 2.6 million people from their homes. Many of those have fled to neighboring LCB countries

Sahelian Joint Forces—A New Way of Operating

The MNJTF and the FC-G5S, whose charters include provisions for cross-border pursuit, are a political acknowledgment that the threat posed by VEOs is transnational in nature. Pooling resources to achieve a common goal is also a sensible strategy for countries with limited national resources. Although many hurdles must be overcome to ensure that these joint forces are effective, regional coordination offers greater potential for success than individual national operations.

The U.S. Army Increases Support to the LCB

Meanwhile, U.S. Army Africa (USARAF) recently [stated](#) that it will shift resources to support partners in the LCB, specifically Niger, Nigeria, Chad, and Cameroon. In fact, 80 percent of USARAF's security-cooperation activities will take place in these countries in FY 2018. This purpose of this heightened attention paid to the LCB is to counter the threat posed by Boko Haram and the fallout from that conflict, including a large increase in [displaced and refugee populations](#). USARAF fears VEOs will continue to recruit from vulnerable populations, who may be willing to accept resources for their families in

exchange for joining a VEO. Other Western partners, led by France, the EU, and, most recently, Germany, which is motivated by its own migration crisis, have also targeted much of their security assistance on the Sahel.

Chad Draws Down

In an unfortunate turn of events, Chad recently [withdrew hundreds of troops](#) from Niger, where they had been heavily engaged in the MNJTF's operations against Boko Haram. President Deby [warned](#) earlier this year that Chad could not afford to maintain the same number of troops in operations outside its borders, particularly in Mali, where it is the third largest contributor of troops to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA). He noted that Chad has been very active in the MNJTF and is now being asked to contribute more troops to support of the G5—requiring an investment of resources that Chad cannot afford. Chad is a key counterterrorism partner, and its armed forces are considered to be among the [most competent](#) and professional in the region. Local Nigeriens in the affected region of Diffa have already complained of rising banditry since the Chadian forces' departure. This development represents a clear loss of capability in the fight against Boko Haram.

Conclusion

The countries of the Sahel most affected by terrorism have made progress in developing new operational concepts in an attempt to more effectively counter VEOs. Their Western partners are continuing to support these new security institutions and assisting in making them operationally effective. The loss of capability associated with Chad's withdrawal from Niger, however, could be an impediment to combatting VEOs.

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In this Sunday Aug. 13, 2017 file photo, Kenyan opposition leader Raila Odinga addresses thousands of supporters gathered in the Mathare area of Nairobi, Kenya. It was his legal challenge that led the court to nullify the August 8 election that President Uhuru Kenyatta won. (Source: AP Photo/Ben Curtis, file.)

Election Nullification Sets New Precedent, Political Challenges Remain

As [Africa Watch](#) reported, when incumbent President Uhuru Kenyatta won the August 2017 poll, Odinga challenged the results in court. To the surprise of nearly all observers, Kenya's Supreme Court sided with Odinga, determining that the [election results](#) were null because Kenya's Independent Electoral and Boundaries Commission (IEBC), which administered the poll, failed to follow procedures laid out in the 2010 Kenyan Constitution.

The ruling marked the first time a court has overturned an election in sub-Saharan Africa, and so was a precedent-setting decision for Kenya and the wider continent. The ruling was particularly surprising because the Supreme Court had ruled against Odinga four years ago when he contested the results of the 2013 general elections. Given the similar irregularities observed in the 2013 and 2017 polls, the Supreme Court's willingness to challenge the 2017 results was [hailed](#) as a sign of Kenya's strengthened judicial independence.

The Supreme Court's ruling set an important legal precedent, but it did not fix the underlying political issues that led Odinga to challenge the election. Odinga's opposition coalition alleged that the ruling Jubilee party had pressured the IEBC to engage in electoral fraud. The IEBC [refused](#) to give the Supreme Court access to its electronic system, meaning the Court could not prove or disprove the allegations. Although the IEBC indicated it would coordinate new elections on October 26, on October 18 IEBC Chairman Wafula Chebukati [announced](#) he could not guarantee the integrity of the upcoming vote, while another IEBC member resigned and fled to the United States after receiving death threats.

Odinga's Decision to Withdraw Creates Legal Headaches

Odinga's withdrawal has created widespread uncertainty over the planned election rerun. By withdrawing, Odinga intended to trigger a new election cycle. He based this argument on the Supreme Court's [2013 interpretation](#) of Article 138(8) (b) of the Kenyan Constitution, which holds that if a candidate dies before the election, a new vote must be held within 60 days. According to the 2013 interpretation, a candidate's withdrawal is treated the same as his or her death. Further, Odinga [claims](#) that this interpretation means "the electoral commission is then required to start to do a fresh nomination exercise and then a subsequent election." This would set the timetable for new polls significantly past October 26.

The ruling Jubilee party disputed this interpretation. Following Odinga's withdrawal, Kenyatta [said](#) that the October 26 vote would go forward as planned. In addition, a day after Odinga announced his withdrawal, Jubilee MPs were able to pass an [election law amendment](#) to ensure that if a candidate withdrew from a presidential election, the remaining candidate would automatically win. Although Kenyatta has yet to sign the amendment into law, its passage ratcheted up tension between the ruling party and opposition.

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Kenya's judiciary has given guidance for a third path forward. On October 11, the Kenyan [High Court](#) ruled that minority candidate Ekuu Aukot should be included on the slate for the October 26 poll. The election commission [interpreted](#) this ruling to mean that all candidates who originally contested the election, including Odinga, would be on the ballot for the October 26 election. This guidance may not be final, however, as either party may appeal the High Court's ruling. Further, there may be [technical difficulties](#) in rolling out a new ballot by October 26.

Can Election Uncertainty Strengthen Kenya's Political Institutions?

The current political unrest has created a crisis of legitimacy within Kenyan politics. As analyst [Wachira Maina](#) has noted, Kenya is undergoing growing political and social polarization. Recent protests are making this divide visible. Despite a recent [government ban](#) on urban protests, Odinga's supporters have launched a series of demonstrations in [Nairobi, Kisumu, and Mombasa](#). Police have [responded](#) with tear-gas and [water cannons](#). As protests continue, the potential for widespread political violence is real. Already human rights organizations report that Kenyan police are responsible for [67 deaths](#) in the post-election period.

Despite the risks, the current uncertainty also has the potential to strengthen Kenya's political framework. As Kenyan political cartoonist [Patrick Gathara](#) notes, Kenyan institutions are responding to uncertainty by "clarifying the rules and laws." As [many commentators](#) have pointed out, the international community was willing to praise the results of the August 2017 elections despite apparent flaws. Kenyans now have a chance to show that they hold their country to a higher standard.

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