



International Center for Policy and Conflict

Immediate Press Release

POST-ELECTION VIOLENCE CRIMES ACCOUNTABILITY: Parliament must not remain stumbling Block to the Tribunal

Monday August 16, 2009, Nairobi, Kenya. The International Center for Policy and Conflict (ICPC) is highly impressed by the tremendous positive progress and overwhelming support towards the Special Tribunal for Kenya Bills attributed to Imenti Central Member of Parliament, Hon. Gitobu Imanyara. The ICPC would like to state that the case for a locally based self contained internationalized tribunal for Kenya is now irrefutable contrary to the ill-advised Cabinet's decision and its sympathizers' assertions.

ICPC will continue to render its technical support as well as engaging and galvanizing civil society, professional bodies, political leadership and faith based groups towards the Bills. We are also tracking, analyzing, and monitoring Bills to make sure they are in tandem with the internationally recognized standards as set out in the Rome Statutes of the International Criminal Court. The Center is facilitating in collating views being given by Kenyans to guarantee that they are factored in the final Bills to be published this week and that the Bills adhere to and meet the will, desire and inspirations of post-election violence victims and Kenyans in general.

We urge Members of Parliament to act diligently and responsibly, instead of personalizing the Bills, as a demonstration of their commitment to fighting against impunity. ICPC reminds MPs that the cabinet cunningly disguised the Members of Parliament as the stumbling block in the passing of the tribunal law. They must not only rebut this ignominious position but also redeem themselves by standing with victims and other Kenyans to end impunity by supporting and enacting the Bill. We are further calling for increased international pressure and application of stringent individualized sanctions against individual cabinet ministers, MPs or any other person obstructing the enactment of the Tribunal.

We are warning that failure by the Coalition Government to act decisively to end impunity for crimes committed in Kenya encourages those responsible for the institutionalized political violence to continue with their reign of terror. As the perpetrators of 2007/ 2008 mayhem continue to enjoy impunity, there is no incentive for them to stop. We are urging the international community to start instituting targeted sanctions to individual politicians or any other person(s) standing on the way to the enactment of the Bills.

The Coalition Government can only break free from the culture of impunity institutionalized by successive regimes by decisively bringing perpetrators of the post-election violence before the wheels of justice. The widespread and systematic use of impunity in the Kenya is mainly attributed to the unwillingness of the government to promote the rule of law. It is the responsibility of the Kenyan government to fulfil its international obligation to prosecute domestic and international crimes committed within its jurisdiction. The collapsed Kenyan criminal justice system has greatly nourished the culture of torture and impunity in Kenya.

As time goes by however, millions of Kenyans as well as friends of Kenya, here and abroad, are expressing their unwavering support and informative comments to the proposed Bills. Kenyans have demonstrated their collective desire to assert their sovereignty by ensuring that a locally based internationalized hybrid court deals with the perpetrators and merchants of violence. It is further clear that Kenyans have unanimously rejected steps taken by the cabinet particularly expanding the mandate of the Truth Justice and Reconciliation Commission (TJRC) to prosecute those behind the crimes against humanity and other gross violations of human rights terming them entirely insufficient. We commend the TJRC Commissioners' candid and outright rejections of cabinet ulterior motives meant to use TJRC to protect criminals.

The President and Prime Minister have an unqualified responsibility and duty to lead the cabinet to unconditionally act on the recommendations of the Waki Commission of Inquiry into the Post-Election Violence report that was unanimously adopted by the Parliament. The Report detailed evidence of an entrenched pattern of serious violations and transgression of fundamental human rights. These crimes are of universal jurisdiction in nature and must be prosecuted using prosecutorial mechanisms meeting international standards.

To date ICPC observes with grave concerns that neither the President nor the Prime Minister has bothered to respond to Kenyans' spontaneous and sustained repudiation of the cabinet's ill-advised and misguided decision. This exacerbates doubt as to what can be expected to flow from The Executive silence. It reveals how distractions and erroneous arguments at the top echelons of power are being employed in order to exhaust accountability processes, guarantee impunity, deliberately confuse Kenyan people and inculcate fear to force the victims into silence. Consequently, this succeeds in guaranteeing and sustaining a profitable political or administrative career for the perpetrators of institutionalized violence and impunity.

Thank you.

**Signed by
Ndung'u Wainaina
Executive Director**