

October 1st 2009 Press Statement by ICPC, CMD, Haki Focus, political parties represented and other CSOs.

We the undersigned:

- Disappointed that the Government of Kenya has demonstrated lack of willingness or intention as well as extreme lethargy to end impunity in Kenya.
- Recognizing the ongoing public debate on whether to support the ICC of Special Tribunal in Kenya, we are of the strong view that each of these is necessary and important for this country so long as their functions, roles and boundaries are clearly defined to avoid conflict and confusion.
- Accepting the need for a TJRC to look at the longstanding, gross and systematic violations of human rights, public corruption, forced displacements, political assassinations, economic crimes, sabotage and impunity as necessary for the wellbeing of a country; we however reject the position of Cabinet that a TJRC will resolve Post Election Violence and crimes.

Now we the people of Kenya take the following position:

1. That Parliament passes the Special Tribunal for Kenya 2009 Bill (Imanyara Bill) so that:
 - a. The crimes that were committed between December 27, 2007 and February 28, 2008 can quickly be prosecuted, punished and justice given to the victims.
 - b. A competent, watertight, credible and transparent court with sufficient and independence is established to try these crimes.
 - c. The victims, including IDPs, victims of rape, sodomy, arson and all other crimes shall be fully compensated. This was not provided for under the Karua and Mutula Kilonzo Bills.
2. The Special Tribunal Bill shall be provided for a mechanism where the suspects in the Waki envelope shall be tried by the IC. This is important because the people of Kenya want a process where those who bear the highest responsibility for the crimes against humanity shall be tried at the Hague while the rest of the suspects shall be tried locally under a competent and watertight process.
3. The people of Kenya also support the establishment of a credible TJRC which shall deal with past human rights violations and historical injustice going back to the colonial era to date. The current TJRC's mandate is limited to the period between Independence (December 12, 1963) and February 28, 2008. The TJRC as currently constituted suffers a credibility, integrity and legitimacy deficit, including the fact that it has within its ranks people who should be investigated. The TJRC law is faulty and therefore needs to be amended and the commission reconstituted.

4. The Special Tribunal Bill harmonizes all these options (a local mechanism and ICC) and gives a firm legal basis for the delivery of justice to the victims and breakages the back of impunity.
5. We urge all the 222 MPs to be present and vote for this Bill when it is brought to the floor of Parliament. The people of Kenya shall deal with those who keep away, abstain or oppose.
6. We welcome the ICC mission led by the Chief Prosecutor Moreno Ocampo. In that regard we call upon the people of Kenya, specifically the victims and witnesses, to prepare to engage with the process.
7. Noting that the government has defaulted on the agreement it signed with the ICC on July 3, 2009, we demand that Justice Minister Mutula Kilonzo makes a formal referral, within seven days, of the Kenyan situation to the ICC and accord it all the necessary support and cooperation.

