



**Press Conference by the Prosecutor of the International Criminal Court, Luis Moreno-Ocampo** Thursday, November 26, 2009 Nairobi and The Hague

Today, at one thirty one in the afternoon, Kenya time, I have asked the Judges of the International Criminal Court authorization to investigate on the violence that followed the elections in December 2007 in Kenya.

I received more than 43 communications, including reports describing the alleged crimes. According to Kenyan authorities 1,220 persons were killed. Hundreds of rapes were documented. Many more, probably thousands, were unreported. 350,000 persons were forcibly displaced, 3600 persons were injured. These alleged crimes were part of a widespread and systematic attack against the civilian population. They can constitute crimes of murder, rape and sexual violence, forcible transfer of population and other inhumane acts, they are crimes against humanity.

Victims were hurt. They were raped, their homes burnt and they lost their cattle, they lost all their means to support themselves. We are siding with them. We will do justice, we will work together to avoid a repetition of the crimes.

The people from Nyanza, Rift Valley, Western, Central, Eastern, Coast and Nairobi Provinces must know that they are not alone; that they do not need to resort to violence again; the Kikuyu, the Luos, the Luhya, the Kalenjin, the Swahili, the Kisii, the Massai, the Kamba and all the other tribes of Kenya, should feel that they are part of a bigger, global community; that we are their brothers and sisters.

Kenya is a great country, its people worked hard to build it. This is an opportunity to rebuild Kenya on new foundations. A coalition is governing Kenya, they are in charge, but they will not be alone. Koffi Annan is leading the AU efforts to support them; the ICC is even a bigger coalition.

What we are seeing today is not a foreign Court and a foreign Prosecutor stepping in Kenya affairs.

What we are seeing today is the leaders of Kenya working with me, a prosecutor they elected, with 110 states and committed citizens all over the world, to ensure

justice for the victims of violence. The ICC forms part of the judiciary system of Kenya. We will work all together: Kenya should be an example on how to do justice, protect victims and overcome massive conflicts.

What are the next steps?

It is up to the Judges to decide on my request to open an investigation.

On 23 November 2009, I formally notified Kenyan victims that I will request authorization from ICC Judges to open an investigation. Victims have 30 days to send to the Judges any comments or views on my request. We are not asking for evidence yet. Under the Statute, the notification to victims is not a call to send evidence but a call on victims to express their opinion on the merits of an investigation.

Should the investigation be authorized:

- We are ready to launch the investigation. Our teams are constituted and ready to deploy. I have already collected and analyzed documents submitted by the Waki Commission and others.
- No list of suspects is binding on me. I have the duty to conduct my own, impartial investigation; I will make my own determination on who should be prosecuted. My policy is to prosecute those most responsible for the gravest crimes, those who planned and organized the crimes.
- If the Judges authorize my investigation, I will return to Kenya in early 2010 to meet with victims.
- When I consider I have enough evidence, I will give the names of those who should face justice to the Judges.
- I expect that the definition of charges and suspects will take place in the course of 2010. As I said before, only then will the names of persons who have to face justice be revealed, when I inform the Judges; not before.
- I will present in Court a limited number of cases, 2 or 3, against those persons considered the most responsible. This is a long journey, this is just the beginning, the Kenyan government can decide on other mechanisms to do more justice and in particular, to compensate the victims.

Let me say a few words about witness protection. I hear reports of threats against human rights defenders, members of the Kenyan Parliament or any other person that openly supports victims. This includes in particular alleged threats and intimidation by Kenyan police officers.

I met in Nairobi with Minister for internal security George Saitoti. I met in the Hague with Attorney General Amos Wako. They are responsible for the protection of victims, human rights defenders and any other Kenyan citizen.

But my witnesses will be protected by this Court.

Let me conclude

It has been two years since the post election violence in Kenya. In two years another election is planned. The world is watching Kenya and this Court. We cannot fail the women, men and children of Kenya.

Thank you for your attention.

I will now take questions.

**OTP PUBLIC NOTICE:**

**VICTIMS OF POST-ELECTION VIOLENCE IN KENYA HAVE 30 DAYS TO  
MAKE REPRESENTATIONS TO ICC IN THE HAGUE**

The Hague, 23 November 2009

By this notice, the Prosecutor of the International Criminal Court informs victims of alleged crimes committed in Kenya during the post-election violence of 2007-2008 that he will request authorization from Pre-trial Chamber II to open an investigation into such alleged crimes, in accordance with Article 15(3) of the Rome Statute and Rule 50 of the Rules of Procedure and Evidence.

The Prosecutor considers that *“there is a reasonable basis to proceed with an investigation into the Situation in the Republic of Kenya in relation to the post-election violence of 2007-2008”*.

According to Article 15(3) of the Rome Statute, *“victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence”*.

In accordance with the Rules of Procedure and Evidence (Rule 50), *“the Prosecutor shall inform victims, known to him [...] or to the Victims and Witnesses Unit, or their legal representatives, unless the Prosecutor decides that doing so would pose a danger to the integrity of the investigation or the life or well-being of victims and witnesses. The Prosecutor may also give notice by general means in order to reach groups of victims if he or she determines in the particular circumstances of the case that such notice could not pose a danger to the integrity and effective conduct of the investigation or to the security and well-being of victims and witnesses”*.

Accordingly, the Prosecutor notifies victims of the post-election violence in Kenya that they can send their comments to the Judges of Pre-Trial Chamber II on whether an investigation on such alleged crimes should be opened. The victims or their legal representatives have 30 days to make representations to the Pre-Trial Chamber.

Victims can make their representations in writing to Pre-Trial Chamber II, which they should channel through the Registry to the postal address below:

International Criminal Court  
Pre Trial Chamber II  
PO Box 19519  
2500 CM, The Hague  
The Netherlands

Further information will follow shortly.

The Pre-Trial Chamber may request additional information from any of the victims who have made such representations, and may hold a hearing if it considers it appropriate.

The Chamber will give notice of its decision on the Prosecutor's request to victims who have made representations.

Should the Judges authorize the opening of the investigation, victims will also have the opportunity to present their voices and concerns during the proceedings and, at a later stage, to request reparations.

The present notice has been posted as of today on the website of the Court, and sent to the media of Kenya, and to a wide range of NGOs. The Registry has been informed.