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Withdrawal of 93 ICC victims immaterial – lawyer

By OLIVE BURROWS | June 11, 2013



Nderitu welcomed the 93 to rethink their decision saying that they are welcome to change their minds and participate in the ICC process/FILE

NAIROBI, Kenya, Jun 11 – The Common Legal Representative (CLR) of victims in the case facing Deputy President William Ruto and Joshua arap Sang in The Hague, Wilfred Nderitu, has said the withdrawal of 93 victims will have no significant impact on the case.

In a statement sent to newsrooms Nderitu said; “the CLR wishes to reiterate that the vast majority of the victims participating in the case whom he represents maintain a profound interest in continuing to participate in the case.”

Nderitu who represents roughly 700

victims in the Ruto and Sang case was however categorical that his office will have to independently establish that the 93 who appended their signatures to a letter of withdrawal addressed to the International Criminal Court's (ICC) Victims and Witnesses Unit did so voluntarily.

“Until the exact circumstances of their signing have been established, such persons cannot be taken to have voluntarily withdrawn from participating in the case and continue to be of concern to the CLR's work, and to be entitled to protective measures,” he said.

The CLR went on to ask the remaining victims to remain steadfast and not be scared off by the exit of the 93. “They should continue to so participate in the knowledge that they have nothing to fear in participating.”

Nderitu also welcomed the 93 to rethink their decision saying that they are welcome to change their minds and participate in the ICC process.

“The CLR wishes to reassure those persons who have signed the letter and are subsequently established to have been approved to participate in the proceedings that they are at liberty to reconfirm their willingness to continue participating in the proceedings.”

The CLR did however admonish the 93 for compromising their security and those of their compatriots by revealing their identities in their letter of withdrawal.

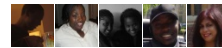
“All participating victims are entitled to anonymity unless they expressly waive their right to such anonymity. Even where a waiver may be inferred, the duty to ensure that the safety and security of participating victims is ensured remains a paramount and independent consideration,” the statement from Nderitu reads.

Nderitu attributed the decision of the 93 to withdraw from the ICC process to fear. “An en masse intention to withdraw is generally compatible with ‘mob psychology’ or other undue influence in the decision-making process, rather than with a decision based on an informed, rational individual basis, and on free will.”

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"The victims blamed the attacks on people other than the accused persons," the victims' letter reads.


The 93 victims also took issue with their legal representative being chosen for them adding that they felt the Kenyan Courts were now in a position to adjudicate over their grievances.

Nderitu took over from Sureta Chana who represented the interests of the victims at the pre-trial stage and was replaced as she was not willing to reside in Kenya for the duration of the trial.


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OLIVE BURROWS

Olive Burrows has been writing features for the last five years having studied communication at Daystar University. She hopes to make a difference through human interest features and is passionate about the environment. She hopes to grow her experience doing radio and video features at Capital FM and to contribute to the brand's tradition of trend setting.

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The IBA is closely monitoring this case and key fair trial developments arising from the proceedings. Lets hope for good results.

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Given that the victims of the post election violence number 1100 dead, 300,000 displaced, and perhaps the relatives of those dead another 100,000, these 93 victims amount to 0.025% of the total leaving 99.975% of the victims aggrieved. No wonder this news is not exactly earth-shattering for the prosecution.

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Very few would risk their lives, property or the safety of their families and relatives to stand in court and testify against the president and his deputy. This is Kenya. Considered the simple fact that a good number of the top security officials during the PEV are either dead or have fled the country.

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