



## *ICC Prosecutor reaffirms that the situation in Kenya is monitored by his office (11 February 2009)*



Prosecutor Luis Moreno-Ocampo and former UN Secretary-General Kofi Annan at the United Nations in 2005

### HIGHLIGHT

- Today, Prosecutor Luis Moreno-Ocampo stated that “the OTP continues to follow-up whether national proceedings into the post-election violence in Kenya in early 2008 are being conducted”. The Prosecutor also noted that the OTP is conducting its preliminary analysis on the situation in Kenya where it is alleged that crimes falling within the jurisdiction of the Court may have been committed.

- In Kenya, the parliamentary debate on the establishment of a special tribunal for Kenya, whose establishment was recommended by the Commission of Inquiry on Post-Election Violence chaired by Justice Philip Waki, continues.

### BACKGROUND

• In accordance with the Rome Statute of the ICC, the Court’s jurisdiction extends to war crimes, crimes against humanity and genocide committed on the territory of a State Party, or by a national of a State Party. In addition, alleged crimes can come under investigation and prosecution before the ICC if a relevant non-State

Party or Parties voluntarily accept(s) the jurisdiction of the Court on an *ad hoc* basis (Article 12(3) of the Statute) or if the Security Council refers the situation to the Prosecutor (Article 13(b)).

- Kenya deposited its instrument of ratification to the Rome Statute on 15 March 2005. In accordance with Article 126 of the Rome Statute, the Court has jurisdiction over relevant crimes committed on Kenyan territory or by Kenyan nationals after 01 June 2005.

- On 5 February 2008, the OTP issued a [press release](#) in relation to the recent events in Kenya.

- The Office also wrote to various parties in Kenya seeking further information in relation to alleged crimes committed on that territory. The Office received a reply from the Kenyan National Commission on Human Rights.

- According to different reports reviewed by the Office of the Prosecutor, including the final report of the Commission of Inquiry on Post-Election Violence and the final report of the Kenyan National Commission on Human Rights, more than 1,000 people may have been killed and approximately 300,000 displaced from their homes following violence which began around 27 December 2007 and affected six of Kenya’s eight provinces.

- Since January 2008, the OTP has also received communications under Article 15 by individuals and NGOs, related to the post-election violence in Kenya. As per normal practice, the Office is considering all information, including open sources.

- The Office will carefully examine all relevant issues related to the jurisdiction

of the Court, in particular whether the alleged crimes fall within the category of crimes defined in the Statute, and whether there are national proceedings in relation to those crimes.

- The preliminary examination is an independent judicial process guided by the Rome Statute. The Prosecutor applies the same standard to all situations. Other situations under examination include Georgia, Colombia, Afghanistan, Côte D'Ivoire and Palestine.

#### **MEDIA LINKS HIGHLIGHTS<sup>1</sup>**

[Why The Hague is best option that Kenyans have](#) – **The Daily Nation, 09/02/09**

*"The issue is not about the local process or The Hague. It is about where the most impartial justice for Kenyans will be delivered affordably. Which makes The Hague the best option."*

[Kenya One Year On](#) – **Al Jazeera, 27/12/07**

*"[The report of the Waki Commission] sets the framework for a local tribunal to be formed – which is a necessary option to exhaust before any international remedy or intervention like taking offenders to The Hague can be sought".*

[To The Hague: No Mercy](#) – **Kenya Indimedia, 31/01/09**

*"We, Kenyans, support The Hague option because having an independent unbiased third party such as the ICC in charge will ensure that the process for justice is free from political interference."*

[Kenya Prepares Tribunal on Election Violence](#) – **Reuters, 27/11/08**

*"An official report into the bloodshed [...] called last month for around 10 people to face a special Kenyan tribunal or be sent for prosecution by the International Criminal Court in The Hague."*

For more information, please contact: OTP Media liaison Officer Nicola Fletcher: <a href="mailto:nicola.fletcher@icc-cpi.int"><u>nicola.fletcher@icc-cpi.int</u></a> OTP Analysis Officer Claus Molitor: <a href="mailto:claus.molitor@icc-cpi.int"><u>claus.molitor@icc-cpi.int</u></a>
--

---

<sup>1</sup> The following excerpts do not necessarily reflect the view of the OTP. To read the full story, click on the title.