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Kenya: Cooperate fully with International Criminal Court trials

The Kenyan authorities must cooperate fully with the International Criminal Court (ICC) to ensure justice is done for the victims of the 2007-8 post-election violence, Amnesty International said today ahead of the opening in The Hague of the trial of Deputy President William Ruto and broadcaster Joshua arap Sang.

“The start of the ICC trial is an important opportunity to end impunity for the serious crimes committed in 2007/2008. Kenya must cooperate fully with the ICC and support its work to ensure a fair and effective process for the defendants, victims and witnesses, and for the Kenyan people,” said Netsanet Belay, Amnesty International’s Africa programme director.

“Six years after post-election violence rocked the country, it is high time to prioritize the pursuit of justice for the hundreds and thousands of people who lost their lives or homes.”

In 2009, the ICC Prosecutor stepped in to investigate crimes committed during the post-election violence, when the Court established that Kenya had failed to show it was taking adequate measures to investigate and prosecute the crimes which killed more than 1,000 people and displaced 600,000.

Although the Kenyan authorities have stated that they will cooperate with the ICC, they have also made determined attempts before the United Nations Security Council, the African Union and most recently Kenya’s Parliament to undermine and derail the ICC’s work to pursue justice for these crimes.

“The government’s recent efforts to politicize the ICC trials are deplorable, and must not be allowed to affect the commencement and future proceedings of this landmark trial,” said Netsanet Belay.

“The authorities should focus their energy on ensuring justice, truth and reparation for the victims of many other crimes that the ICC is not able to deal with.”

Deputy-President William Ruto and broadcaster Joshua arap Sang are accused of crimes against humanity including murder, forcible population transfer, and persecution.

They are appearing voluntarily before the ICC on summons, and must continue to cooperate fully with the proceedings, including attending the hearings as instructed. Failure to attend hearings could lead to the Court issuing arrest warrants which would require their surrender and possible detention in The Hague.

Risks relating to witnesses, including intimidation and interference with obtaining their testimony, have emerged as a significant challenge to the ICC’s proceedings in Kenya. This situation has already led to some witnesses withdrawing from the ICC’s cases.

In the last three months, four witnesses have withdrawn their cooperation from the trials – some citing security concerns.

“It is an extremely difficult environment for witnesses and victims who want to engage with the ICC’s process. Any reports of witness interference or intimidation should be duly investigated by the ICC Prosecutor to determine whether they amount to offences against the administration of justice in the ICC Statute,” said Netsanet Belay.

“The ICC has a responsibility to protect victims and witnesses and Kenya has an obligation to cooperate fully with its protection efforts and any investigations it conducts into interference or intimidation.”