



International Center for Policy and Conflict

ICPC 2009 Annual Report

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EXECUTIVE SUMMARY

This report covers International Center for Policy and Conflict (ICPC) engagement on transitional justice mechanisms in Kenya. It covers areas that were funded by Open Society Initiative for Eastern Africa (OSIEA) as well as other activities related to but not funded directly by the foundation. It is significant to observe that ICPC funding has seen growth in this reporting period. HIVOS, URAIA, Department of International Development (DFID) and Norwegian Embassy (South Africa) has supported specific activities while Swedish International Development Agency (SIDA) and John D. and Catherine T. MacArthur Foundation-through Kofi Annan Foundation- have already made a commitment and pledge to support ICPC work.

OSIEA provided the ICPC secretariat and activities seed money. The reporting period covering October 2008 to October 2009 has seen ICPC growth and expansion from a nascent organization to an influential national and global transitional justice and human security organization. It is a crucial reference point to many actors including civil society, policymakers, media and donor community in the transitional justice discourse and other related fields. This has given the Center a strategic cutting edge advantage and huge potentiality in defining and influencing transitional justice, human security and development direction nationally, regionally and globally. The strategic focus of the Center for the next five years captures this potentiality.

In this reporting period, ICPC carried out activities that focused on the implementation of the mediation agreements arising from the Kenya National Dialogue and Reconciliation framework with achievements. Key among these included: causing better understanding of purpose and transformative effect of the proposed transitional justice mechanisms; strengthening and consolidating civil society agenda on transitional justice; advocacy and lobbying for the establishment of an effective and credible Truth Justice and Reconciliation process; providing leadership on advocacy and promotion of criminal accountability related to post-election violence, domestic and international crimes (including lobbying for effective, impartial and credible Special Tribunal for Kenya, engaging International Criminal Court and monitoring domestic trials).

Further activities and successes involved building and strengthening capacities of civil society organizations, victims, media, policymakers and communities on transitional justice mechanisms; developing, documenting and sharing information on transitional justice policy; profiling transitional justice and human security issues in the media(electronic and print); and intensifying international advocacy on Kenyan crisis. ICPC acted as a major source of information related to transitional justice mechanisms for many local and global actors as well as creating partnerships and collaboration initiatives. ICPC achieved a major milestone in introducing a transformative gender justice advocacy from a transitional justice angle.

In the course of this one year, ICPC ventured into regional initiatives partnering with human rights organizations from South Africa, Zimbabwe and Uganda to implement a three year Department for International Development (DFID) funded project called Transitional Justice, Governance and Accountability in Africa (TJGAA). The project aims at strengthening the capacity of indigenous civil society organizations in Africa to engage more effectively with transitional justice nationally and on the African Continent in a manner that promotes citizen participation, rule of law, gender justice and socio-economic rights. This project is expected to lay foundation on developing and drafting transitional justice policy for Africa continent and infusing it {policy} into regional and continental human rights bodies and instruments. This phase has begun with Open Society Initiative for Eastern Africa (OSIEA) and East African Law Society (EALS) as strategic partners.

It is projected that in the next five years, International Center for Policy and Conflict will enhance its core mission of conducting advocacy and lobbying; capacity building and information sharing; strategic litigation; international collaboration, advocacy and partnerships; research and documentation; policy dialogue; coalition building on strategic transitional justice and human security issues; publications and communication; and institutional development. ICPC has currently developed projects that address specific and various aspects of transitional justice and access to justice; human security; transformative gender justice and capacity building. By coordinating and working closely with other institutions involved in similar work, we expect to maximize our resources and ensure that our initiatives complement other work in

the country and the region. ICPC is also committed to developing new methodologies to obtain solid information and analysis about the implementation—and obstacles to the implementation—of successful transitional justice mechanisms, conflict resolution, peace building initiatives and human security.

INTRODUCTION

The International Center for Policy and Conflict (ICPC) is a non-profit and non-partisan organization founded in 2005 to create a platform to foster democratic, peaceful, secure and just societies in Africa and globally. The Great Lakes and Horn of Africa region which have experienced widespread political instability for decades is the ICPC's major focus. The Center is registered in Kenya under the Trustees (Perpetual Succession) Act Chapter 164.

The International Center for Policy and Conflict proactively reflects and engages in public policy and legal dialogues, research and analysis as well as advocacy and capacity building on the broad realms of transitional justice, human security, conflict resolution and gender justice in order to prevent conflict recurrence; promote accountability and equality; and deepen culture of justice and respect for human rights and democracy. The Center is meant to establish, promote and build a sustainable human development; and democratic human rights adhering states.

The International Center for Policy and Conflict comprise of the Board of Directors, Management Committee and a full-time programmatic and administrative staffs. In addition, it utilizes a network of Associates and Consulting Experts and works in concert with other local, regional, and international organizations. The Center also offers internships. The Board members are responsible for the strategic policy direction of the Center. The management committee guarantees a sound internal management structure and policies that contribute to the optimal functioning of the organization. The Executive Director is the head of the secretariat, responsible for its management, coordination of programmes and ensuring accountability in utilization of its resources.

REPORT BACKGROUND AND JUSTIFICATION

Transitional justice refers to transformative mechanisms, institutions and processes adopted by societies moving from autocratic regimes to democracy and/or from war to peace to deal with the legacy of human rights violations and other abuses. It entails different but interrelated mechanisms which promote justice, peace and reconciliation. The different transitional justice processes share the same goal, are interrelated and are ideally designed to mutually reinforce each other not substitute. This comprehensive approach aims to prevent similar violations and abuses in the future and set society on the road to post-conflict recovery. Experiences have shown that if a country does not face the challenge of objectively evaluating and confronting the past, then this traumatic past will have adverse effects on the future.

However, transitional justice initiatives have lacked stronger governmental support, and political will which has remained an obstacle to their implementation. Yet it is only by democratizing and strengthening the rule of law that Kenya and wider region move forward towards sustainable peace and development. Dealing with the legacy of human rights violation remains a sensitive issue, and many governments are reluctant to address these problems. Unresolved issues remain in Kenya and throughout the wider region such as judicial reform, the continued impunity of crimes perpetrators with the limited number of crimes trials conducted the lack of transparency and will on the part of governments, and the lack of civil control of security sector.

These problems are often coupled with lingering ethnic politics coupled with endemic corruption and pillage of public resources. Trust in security and law enforcement institutions; access to justice and judicial institutions; and establishing democratic and accountable political systems can only be restored if justice for victims is assured, and if stable political environments in which the rights of all citizens are protected—are built. A permanent, unequivocal political and legal reckoning with those responsible for human rights violations is a prerequisite for local, national and region just and durable reconciliation. Justice and human rights are preconditions for achieving the Millennium Development Goals (MDGs) as well as fundamental components of human development that protect, empower and dignify all citizens, and help to

ensure equality of opportunity. Transitional justice as a human rights advocacy strategy is built around five main pillars i.e. criminal accountability, truth-seeking, reparations, legal and institutional reforms and memorialization. The overall goal of the process is transforming state, realization of justice, address violation of human rights and human dignity and prevent the occurrence of violations. Kenya National Dialogue and Reconciliation framework and Transitional Justice Transitional justice aims to deal with the legacy of systematic and massive human rights abuse, recognizing and acknowledging victims, and contributing to the processes of peace building and democratization.

One key element of transitional justice is placing the victim at the centre. It ensures that the victims of human rights violations are recognized and empowered as fully rights-bearing citizens with dignity. Transitional justice processes should reinforce – and not replace – each other. A holistic approach is likely to be most successful in meeting the aspirations and needs of the population. The desire to support impunity for the sake of short-term stability and reconciliation needs thorough scrutiny against the serious long-term effect that a culture of impunity has on respect for the rule of law, and the effective functioning of law and justice enforcement institutions, and democratic political systems.

Long-term stability and security cannot be achieved without a sufficient and effective culture of accountability that flows through all public institutions. Transitional justice has emerged as a critical issue on the agenda of the Kenya National Dialogue and Reconciliation(KNDR) process brokered by the Dr. Kofi Annan and Panel of Eminent Persons to resolve the Kenyan political crisis after the bungled 2007 General Elections and its reprisals. Following the signing and enactment of the National Accord and Reconciliation Act 2008 in February and the establishment of various mechanisms to address political crisis and aftermath, the nature of the mechanisms has been a subject of debate and discussions, especially in regard to the opportunities and challenges they would provide towards dealing with impunity, long legacy of human rights violations, rebuilding national public institutions and rehabilitating the rule of law in Kenya. Key among these mechanisms includes: criminal accountability to deal with those bearing responsibility for the 2007/8 post-election violence atrocities; effective and credible

truth seeking and Constitutional and institutional reforms. The challenge was and remains how Kenya must create comprehensive and bold transitional justice policy that would see overhaul of corrupt and incompetent criminal justice system; prosecutions of perpetrators of human rights abuses; writing a new democratic constitution and reforming state abusive and subservient institutions. For Kenya to deal with this unpleasant past means re-examining deep into the nation's psyche, confronting diverging truths, ensuring that justice is done, ensuring impunity does not prevail and changing institutions as well as mind-sets. Addressing the legacies of human rights violations and economic crimes is a tremendous challenge.

Yet it is imperative for a society to build the foundations for lasting peace and security and to restore citizen's trust in the leadership and institutions that guarantee the rule of law and human rights. Many issues relating to transitional justice, including broad judicial reform, police reforms, the possibility of criminal prosecutions for post-election violence (PEV) and many other reform projects remain largely dormant. ICPC believes that while a coherent and holistic approach to reforms is necessary to prevent abuses from recurring. Reforming abusive institutions is vital as it lays a foundation for implementing the other reforms envisaged in the National Accord.

For instance, Commission of Inquiry into Post-Election Violence (CIPEV) recommended the option of establishing of a Special Tribunal for Kenya to prosecute those bearing greatest responsibility on post-election violence. This accountability mechanism if it is established as an independent and impartial hybrid tribunal provides the best avenue to bring perpetrators of the Post Election violence to justice and send a strong statement on government's commitment to eradicate the culture of impunity. However, the Special Tribunal process has had great need for technical assistance, comparative information sharing about hybrid tribunals and best practices as well as public outreach to understand its purpose and intentions.

The proposed institutional reforms including the transformation of public institutions that contributed to impunity or supported an authoritarian regime and the culture of unaccountability have made little progress. Certain institutions including the state security

agencies, the judiciary, the Office of the Attorney General, the Electoral Commission, and Parliament among other governance institutions have been greatly indicted as being reactive forces of oppression, ineffective in combating impunity and in fact even accused of promoting the culture of impunity in Kenya. ICPC believes that unless and until these institutions are radically transformed and re-structured there will be little opportunity for achieving reforms in Kenya. The Institutional reform process is expected to transform governance institutions into efficient and fair institutions that respect human rights, support just and durable peace, and preserve the rule of law.

The challenge is addressing the shortcomings of both the individual members of institutions and structural deficiencies with a view to transform these public loathed and mistrusted institutions and prevent the recurrence of abuse through capacity-building, integrity-building, and legitimacy-building aimed at resolving citizens' lack of trust with them. The progress towards accountability and democratic governance in Kenya depends more on the capacity of the citizenry to demand reforms and protect their space and particularly their right to participate in reforms. There is need to establish, focus and strengthen the citizenry movements into a critical mass that can propel change. Citizens' ability to form powerful informed grassroots advocacy groups is essential if the proposed transitional justice processes are to remain meaningful and a reality.

ICPC Intervention Activities

The strategic objective of this project was the promotion of sustainable peace, justice and rule of law in Kenya, and the establishment of a culture of accountability and respect for human rights. The project encompasses two mutually connected and reinforcing specific objectives. Objective one is focused on raising public awareness about transitional justice and its processes through an elaborate public education, specialized trainings and information sharing. Objective two-considered the centerpiece of the project- is a consultation process designed to strengthening national level capacities to promote peace through transitional justice processes.

These objectives were to be achieved through advocacy for implementation of:

- Criminal Accountability mechanisms

- An effective, credible and victim centered truth justice and reconciliation commission (TJRC)
- Institutional and legal reforms
- Capacity building and information sharing
- International advocacy and dialogue
- Media advocacy

Criminal Accountability Mechanisms

Throughout the reporting period ICPC has been working and advocating for the establishment of a Special Tribunal for Kenya (STK) to try the perpetrators of the 2007/8 post election violence. The Center in conjunction with, Kenyans for Peace with Truth and Justice (KPTJ) and other Civil Society organizations (CSOs) engaged vigorously with the Commission of Inquiry into Post-Election Violence (CIPEV) popular known as 'The Waki Commission'. Soon after the Waki Commission released its report on October 16th 2008, ICPC initiated consultations with CSOs, particularly those working under the auspices of MultiSectoral Task Force on Transitional Justice, and convened an international experts' conference on December 3rd 2008 on the Special Tribunal for Kenya.

The conference drew a lot of interest and brought representatives from the civil society, political parties, Members of Parliament, media, government officials and donor community. Member of Parliament and Human Rights Lawyer, Hon. Gitobu Imanyara, Imenti Central Member of parliament was the Guest Speaker. The resolutions and discussions of the conference were reduced into a position briefing paper on the Special Tribunal for Kenya which was widely shared and disseminated including publishing an abridged version of it in local newspaper, Daily Nation January 24, 2009: "What law on Violence Tribunal should take into Consideration".

This document has influenced and was referred during the entire discussion about Special Tribunal. Special Tribunal was very central to tackling impunity in Kenya. During this time there was a tentative working document from the government on the STK though it had not been officially gazetted. The conference interrogated Waki Commission proposals and looked at

practical technicalities and challenges (legal and political obstacles) to be addressed. It made the following proposals/ requirements to be met;

- Constitutional safeguards and tribunal statute to meet criteria by Waki report
- For tribunal to win confidence of victims it must be credible, impartial and independent investigations and prosecutions;
- It must guarantee international standard of trials
- It must uphold appropriate penalties in event of convictions.
- The criminal jurisdiction must ensure that as wide crimes and perpetrators are prosecuted
- Its must have financial and political independence
- A strong effective victims and witness protection mechanisms must be provided

The official government Bills for the Special Tribunal were published in late December 2008. ICPC assumed role of being a reference point for advocacy, technical assistance and connecting both local and international organizations such as Human Rights Watch (HRW), International Center for Transitional Justice (ICTJ), and the donor community. ICPC robustly engaged and coordinated other CSOs with the Parliamentary Committee on Administration of Justice and Legal Affairs. During this period ICPC conducted capacity building sessions for various groups including media, CSOs, women organizations and special thematic community groups including internally displaced persons that had direct interest with the Tribunal.

The Executive Director was key resource person in a series of forums and media talk shows organized either directly by ICPC or civil society organizations to discuss both the criminal accountability policy and legal framework enacting the Tribunal. Certain aspects of the Conference got live coverage from the Royal Media Services Television. *See Ndung'u Wainaina "Tribunal good chance to end Impunity", D/N November 2, 2008*

Further the Executive Director wrote and published several opinion articles in local and international press and blogs. The organization has constantly been invited by the donor community based in Nairobi to give briefings on the progress of Tribunal and other transitional justice mechanisms agreed under the KNDR framework. On February 7th, 2009, ICPC held a second 2nd workshop which was aimed at lobbying Members of Parliament and political

parties' leadership to return the contested flawed STK Bills back to Ministry of Justice and re-look at the constitutional weakness of the bill and the Statute. It was argued that passing a flawed Constitutional Bill won't protect the Statute and by extension the Tribunal, however watertight, from court challenge. The workshop observed that there were inadequate consultations and that the Bills had weakness. A petition was made to Parliament, President and Prime Minister to shelf the Bills until outstanding issues were dealt with.

On February 9th, ICPC in partnership with the Constitutional Reform and Education Consortium (RECO) placed a paid advert in the Daily Nation, Pg 15 giving details of the weaknesses of the Bills and lobbying Ministry of Justice and Constitutional Affairs and the Parliament to withdraw the flawed Bills. Unfortunately, the Ministry and Parliament ignored the recommendations and proceeded to vote for the Bills on 12th January 2009 and the Bills were defeated. ICPC nevertheless continued with its lobbying and advocacy targeting the support of political parties, donors, CSOs and Kenyan citizenry on establishment of a Special Tribunal. On March 15th 2009, ICPC organized a breakfast meeting comprising of CSOs and political leaders to strategize on the way forward and find ways of reviving the STK.

The breakfast meeting agreed that there was need:

- To consult with International Criminal Court (ICC) to agree on intervention in line with recommendation of Waki report.
- To explore possibility of re-introduction of the Tribunal Bill through a more inclusive and consultative process
- To start applying pressure for domestic prosecution of minor perpetrators of post election violence through the local courts

On 30th March 2009, ICPC was invited to Geneva Conference convened by the Chief Mediator Koffi Annan to review the mediation progress and the lessons learnt. The ICPC Executive Director made a presentation on the proposed transitional justice mechanisms and dealing with impunity in reference to the establishment of a Special Tribunal for Kenya (STK) and Truth Commission. During the conference, the Director held consultations with delegation of

International Criminal Court (ICC) at the conference followed by a formal meeting at ICC headquarters at The Hague, Netherlands. Since then ICPC has held a series of consultations with ICC, development partners, CSOs and the media on the way forward with regards to the Special Tribunal for Kenya. When the new Minister for Justice Hon. Mutula Kilonzo was appointed on 5th May 2009 ICPC issued a public statement asking him to prioritize re-introduction of STK Bills through a consultative process factoring CSOs and victims concerns to come up with a Special Tribunal that comforts and meets international standards. The Center also gave the Minister a comprehensive document that detailed all recommendations arising from previous consultative meetings hosted by ICPC titled 'Position Paper on Prosecutorial Accountability Mechanisms for Kenya: Ending Cycle of Impunity'. (Available at the secretariat Office)

The Minister used a lot of the materials and information in the ICPC position paper to draft new watertight Bills that were twice rejected by the Cabinet. This rejection of the news Bills was confirmation that the earlier drafted were inadequate and would have established a flawed Tribunal; and that the Government of Kenya lacked political will to address the culture of impunity. The cabinet in a decision and vague statement dated July 30th, 2009 declared it was going to introduce amendments to the Truth Justice and Reconciliation (TJR) Act 2008 to expand mandate and representation of the Commission including the prosecution duties besides truth seeking.

ICPC issued a protest public statement and worked on a protest open letter to the President and the Prime Minister which was placed as a paid up advert in the local print press on 7th August 2009(Daily Nation) and the Standard and Taifa Leo(9th August, 2009) titled: Save the Special tribunal for Kenya. International Center for Policy and Conflict opened a series of consultative meetings and correspondences with the International criminal Court specially the Jurisdiction, Cooperation and Investigation to build on the earlier meetings. The objective of these meetings was to facilitate sharing of information and the lobbying ICC to robustly pressurize the government of Kenya to enact the special tribunal. The International Criminal Court made public communication that it was monitoring and analyzing the Kenya situation in

February 2008. On September 16 and 18, 2009, while attending an international conference organized by the Dutch Foreign Affairs and International Center for Transitional Justice, ICPC used that opportunity to brief and engage with the ICC Chief Prosecutor on the future of criminal accountability in Kenya and the role of the Court. When the Prosecutor addressed the conference he stated that Kenya can adopt a three prong approach consisting of the International Criminal Court, the Special Tribunal for Kenya and Truth Commission. A structured and detailed meeting between the Prosecutor, Office of the Prosecutor staff and civil society was held at the Prosecutor's office on the September 18, 2009.

In the meeting at the Office of the Prosecutor On September 18, 2009, ICPC shared in detail its own assessment of the situation and the likelihood of the establishment of the Special Tribunal. This is well captured by ICPC transitional justice mechanisms monitoring report titled: Road To Elusive Post-Election Violence Justice: A trail of Lies and Betrayal. It was clear there was little chance of Tribunal being formed without political shift and or exerting more international pressure to the government of Kenya. Further, it was observed that government of Kenya was unlikely to make self referral. The civil society delegation advised the Prosecutor to prepare to act on his own motion.

The safety and security of the victims and witnesses as well as that of human rights defenders featured prominently in the meeting. True to this observation, the government of Kenya refused to make self referral and secondly, the Prosecutor has sort authorization from the Court to open official investigation into the Kenya situation. The International Center for Policy and Conflict brought together Kenya Civil Society on Transitional Justice Group on September 22, 2009 and released a comprehensive joint policy statement on the relationship between the International Criminal Court, Special Tribunal for Kenya and the Truth Commission.

This Policy Statement was developed after lengthy consultations by various members of the Network and factored in the International Criminal Court position by Chief Prosecutor Moreno Ocampo on the three prong approach to resolving accountability issues in Kenya. International Center for Policy and Conflict opened and held a series of consultative meetings with the victims of post-election violence as well as those of past human rights abuses. These meeting

also involved participation of human rights groups based or working in areas that were adversely affected by the violence. Prior to the visit of the Chief Prosecutor of the International Criminal Court to Kenya, ICPC consolidated the demands of the victims into a petition and placed it in the local press as paid up advert on Thursday November 5, 2009 under the title: The Joint Victims And Civil Society Communiqué To Kenyans, The Office Of The Prosecutor Of The International Criminal Court (ICC) And The International Community. Media advocacy around the criminal accountability was another major achievement for the Center in the reporting period. ICPC released several press releases/statements; Executive Director published several articles; fielded interviews; and participated in several top talk shows in different radio and televisions networks (see attached summary).

ICPC remained the reference point to virtually all local and international press on the Special Tribunal and International criminal Court. ICPC, as part of implementing the resolutions of the breakfast meeting held on March 2009, explored the possibility of re-introduction of the Special Tribunal for Kenya Bills through a private member's motion. It contacted legal and human rights advocacy group, Haki Focus and Hon. Gitobu Imanyara, Member of Parliament, Imenti Central requesting to work with them and fine tune the Bill that was rejected by the cabinet in July 2009 with purpose of tabling it before Parliament for enactment.

After consultations, the bill was reworked and tabled before parliament as Constitutional of Kenya Amendment Bill 2009 (Special Tribunal for Kenya). The Bill addressed all the concerns raised previously by the civil society. These concerns are well documented in article published in African Arguments: Oxford University Transitional Justice Forum; Titled "Special Tribunal Enactment: Why Cabinet, MPs, are Misleading Kenyans". Despite support from Faith based organizations, a section of MPs, CSOs, international community, women Rights Organizations and Kenyan citizenry, Members of Parliament have been sabotaging and undermining debate of the Bill by mostly staying away from parliamentary sessions. The Bill has been shelved to be reintroduced back in Parliament in the next session In February 2010. This Bill has exposed the lack of political will on the part of the government of Kenya to address impunity contrary to the impression it keeps projecting.

International Criminal Court can only prosecute a few prime suspects with possibility of creating an impunity gap without Special Tribunal for Kenya³. Future ICPC Strategic Focus on Criminal Accountability There are high expectations from the majority of Kenyans for the International criminal Court to positively intervene and successfully prosecute those bearing the greatest the responsibility for the post-election violence. However, the Court has limitations and equally significant rehabilitate rule of law and access to justice for victims of human rights abuses is to be framed beyond the International Criminal Court.

Enactment of the Constitutional Amendment Bill 2009(Special Tribunal for Kenya) and advocacy for the criminal justice reforms need to take priority not only for the victims of 2007 post election violence but also for prosperity. However, the biggest obstacle remains the political will and ability of citizens to increase demand for reforms. Building on the achievements; ICPC proposes to undertake the following interventions to further push for the criminal accountability and access to justice:

- i. Continue with a sustained lobbying and advocacy with Parliamentarians, and mobilizing CSOs, Faith based groups, international community and the general public to demand and push for the establishment of a special tribunal for Kenya to try post election violence perpetrators. This is aimed at compelling parliamentarians to enact the Constitutional Amendment Bill 2010 enacting the Special Tribunal for Kenya
- ii. Strengthen and consolidate post 2007/8 election violence victims lobby group and institute strategic interest litigations in quest for access to justice.
- iii. Should the Tribunal be passed, ICPC would still engage robustly with the Tribunal work and the Victims.
- iv. Continue consultations with the International Criminal Court and undertake massive public outreach and education on the ICC and its operations in Kenya including supporting victims to effectively engage the Court.
- v. Increase international community advocacy to push for punitive sanctions and freezing of assets of those adversely mentioned in human rights violations in addition to imposing travel

bans for them and their families. *Ndung'u Wainaina, The Star, October 2009, " ICC is no panacea to post-election crisis"*

vi. Start a campaign on lustration and vetting of all mentioned perpetrators of the 2007/8 post election violence and other gross human rights violations. This target at forcing perpetrators out of public office as well as barring them from holding public office in future.

vii. Institute public interest litigation cases with particular reference to strengthening the citizens' rights vet and bar perpetrators of human rights violations, environmental, economic crimes, corruption and land crimes among others from holding public office.

viii. Prepare, draft and lobby for Accountability for Human Rights Violations Law to set stringent vetting policy and procedures for those contesting for public office or appointed to public institutions.

ix. Heighten advocacy and lobbying for criminal justice and security sector reforms.

Credible and effective victim Centered Truth Justice and Reconciliation Commission (TJRC)

This reporting period was significant to the International Center for Policy and Conflict in strengthening and consolidating the advocacy and lobbying for the establishment of effective and credible victim-centered truth, justice and reparation mechanism. ⁴The Center has had a track record for transitional justice policy advocacy. The signing of the Kenya Accord and Reconciliation Act 2008 on February and subsequently the Truth Justice and Reconciliation Commission (TJRC) Agreement on March 2008 signaled the beginning of official truth seeking process which was abandoned in 2003⁵ as a critical stage of addressing past legacy of human rights. The Center was consulted before the drafting of the Truth Commission agreement by the Consultant ⁷hired by the mediation team. In the year 2008,

ICPC succeeded in bringing together several civil society organizations namely: Kenya Human Rights Commission(KHRC), Federation of Women Lawyers –Kenya(FIDA-K), Coalition on Violence Against Women(COVAW), International Commission of Jurists –Kenya(ICJ-K), Center for Rights Education and Awareness(CREAW), Mazingira Institute, Urgent Action Fund-Africa as

well as the statutory national human rights institution, Kenya National Commission on Human Rights(KNCHR) and grant making foundation, Open Society Initiative for East Africa(OSIEA) to form for the first time a strong transitional justice coalition called Multi-Sectoral Task Force on Truth Justice and Reconciliation(MSTF).⁸ The success story of this coalition has led to civil society in Namibia to use its model to form Transitional Justice Network of Namibians to promote the dignity and interests of all victims of the conflicts of the past. ICPC had the responsibility of convening and coordinating the work of the Task Force.

The Task Force held a series of strategy meetings and technical inputs between January and March, 2008. ICPC also opened consultations with International Center for Transitional Justice (ICTJ), a New York based human rights group, and agreed on the need for ICTJ to collaborate with the Task Force. This was meant to share expertise, information, enhance local ownership and have joint approach to Truth Commission and other transitional justice issues. On February 2009, Federation of Women Lawyers in Kenya in partnership with United Nations Office of the High Commissioner for Human Rights and the Urgent Action Fund organized a workshop that brought together civil society representatives from across Africa.

The International Conference was on Gender and Transitional Justice. The theme of the workshop was "Taking stock of the gender responsive Transitional Justice approaches: Progress, Challenges and Opportunities for best practice interventions". The workshop was meant to reflect the ongoing initiatives on the transitional justice initiatives in Kenya with a view to promote further dialogue. The Executive Director gave a written and detailed paper explaining the prospects and limitations on Truth Justice and Reconciliation and other transitional justice mechanisms in Kenya.

Further, he gave historical and recent *Ndung'u Wainaina, Standard , May 17, 200, " Key Issues TJRC must address in their work"*, Prof Makau Mutua Task Force on the possibility of Establishment of the Truth Justice and Reconciliation Commission *Ndung'u Wainaina, " True healing won't be achieved without dealing with the past", D/N May 2009*. Priscillah Hayner, Truth Commissions' Expert and Founder, International Center for Transitional Justice, The Coalition was formed in March 2008 ; see *Transitional Justice Network in Kenya Concept note*

See Namibians Coalition for Transitional Justice, www.ictj.org , AllAfrica.com, Prospects for transitional justice; truth justice and reconciliation (TJRC) and other Transitional justice processes in Kenya reflections on what Kenyan civil society have done on transitional justice and what specific steps to take in moving the agenda forward. In late the March 2008 Government of Kenya published a draft Truth Justice and Reconciliation Act 2008. The Bill was seriously flawed in many aspects. On April, 2008 the Taskforce organized a full day technical workshop to critique and input into the published TJRC Bill 2008.

The workshop brought together all stakeholders including civil society organizations, United Nations Office of High Commission on Human Rights (OHCHR), donor representatives, media and a section of politicians. ICPC gave the background and benchmarks on the TJRC, and critique on the TJRC Bill. The Task Force held a public engagement and dissemination forums in the month of April 2009 in order to create awareness and marshal support from relevant stakeholders in Kenya and abroad. On April 2008, the Director was invited to a full day women and women rights organizations to share and talk about the truth seeking and gender perspective with the special focus on the proposed Truth Justice and Reconciliation process.

The forum agreed for the need to pursue a more transformative gender justice in the context of transitional justice away from the traditional gender discourse. This was a unique moment for the women movement in enriching the debate on the gender equality and parity. The forum took a common position and prepared a memorandum on TJRC. On May 27 2008 ICPC convened a joint consultative meeting between the Task Force and the International Centre for Transitional Justice (ICTJ). The two agreed on the final working relationship and the joint strategy. The two also shared their perspectives and preliminary positions and critiques on the TJRC Bill 2008.

The Task Force asked ICPC to develop framework for auditing and monitoring the TJRC and the legal framework. 12 The Task Force concretized a comprehensive and detailed critique and summary of the changes that needed to be introduced into the Truth Justice and Reconciliation Bill 2008¹³ after holding a series of consultative meetings with the Kenyan society. The Parliamentary Committee adopted substantive recommendations of the civil society. However,

crucial aspects of the Bill that the civil society wanted amended were disregarded¹⁴. On August 5, 2008 ICPC convened a special session of civil society and political parties to assist them prepare, draft and submit a petition to the Parliament not pass the TJRC Bill until sufficient consultations were held particularly with the victims. The petition was filed and table before Parliament on August 6, 2008 but rejected. In order to make informed interventions and provide remedial measures to the inadequacies¹⁵ of the TJRC, civil society developed a strategy of engagement ¹⁶ with detailed background and analysis of the faults in the TJRC law.

To supplement this strategy ICPC developed its own response giving the direction that civil society should take¹⁷. Also in this reporting period provided the technical assistance to the transitional justice network to develop a capacity building training manual and tools on transitional justice¹⁸ and a simplified training tool on the transitional justice and truth commission¹⁹. Further, to influence and assist the work of the Truth Commission, ICPC commissioned a research report to catalogue and document the landmark past human rights abuses in Kenya.

The report is ready and will be presented to the Commission. ¹¹ See the Task force critique of the Bill and the Forum Report *See Critical Standards of Establishing a TJRC for Kenya, D/N May 2008*, see document and memorandum to the Parliamentary Committee and One Page Summary of the Changes to the TJRC Bill 2008, See documents: TJRC Act 2008 Concerns, TJRC Basic Summary and *Opinion Articles D/N " Examine Truth and Justice Bill, Owino Opondo, August 10,2008* and *"The inadequacies of the Truth and Justice Law", Ndung'u Wainaina, February 9,200. Ndung'u Wainaina, Nairobi Star , May 2008, " Pitfalls that face Truth Commission", Civil society Proposal for a multi-pronged strategy to the TJRC Ndung'u Wainaina, The Star, August 2009, " Civil Society role in fight for Right" See, "A Broad Report on Key historical injustices and human rights violations in Kenya (1963-2008)", ICPC, 2009 and Policy brief: Working towards Effective Truth Commission*

Policy makers are very crucial in the successful promotion, enactment and implementation of transitional justice mechanisms. Without sufficient political will and support and also proper

understanding of the essence and purpose of the transitional justice by the key government officials and Parliamentarians there is limited chance of effective transitional justice policy. In this regard, the International Center for Policy and Conflict recognized this need. In order to mitigate, the Center ensured that every opportunity was maximized by explaining what transitional justice and its goals entails. To assist in this process, ICPC developed and published a policy specifically for Parliament.²⁰ The briefing was widely shared and discussed. In July 21 and 23 2008, ICPC actively participated in Gender and Transitional Justice Regional Conference hosted by ACCORD, KHRC, and Action Aid International Kenya among others at the Panafric Hotel.

ICPC was instrumental in engendering Kenyan transitional justice mechanisms; a paper was presented to this effect. ICPC also actively participated in a Public Forum on TJRC hosted by the KHRC, KNCHR and Urgent Action Fund- Africa at the K.I.C.C in July 23, 2008. ICPC was also part of the Fairview Hotel lobbying TJRC forum hosted by FIDA Kenya and Action Aid International Kenya in July 29, 2008 for Kenya Women Parliamentarians Association (KWOPA). ICPC in collaboration with KHRC trained regional leaders on transitional justice and TJRC during the KHRC RBA training to partner communities at Swara Lodge in August 20, 2008. In addition, the Center in collaboration with KHRC trained women members of the League of the Kenya Women Voters in August 2008 about the gender and broad content and process issues of the TJRC Bill and related transitional justice processes.

The Center in collaboration with KHRC and KNCHR coordinated and held the 1st National Victims Convention on October 2008 that initiated the process of formatting a broad victims' rights coalition. ICPC also participated in a court hearing for preservation of the former Nyayo House Torture Chamber-February 16, 2009. Further ICPC and KHRC organized a Conference on Transitional Justice, on February 6, 2009 at Silver Springs Hotel Nairobi. ICPC has consistently advocated for a credible and legitimate TJRC for Kenya. Immediately the selection panel for the TJRC Commissioners was constituted the Center issued a statement demanding for transparent recruitment of TJRC commissioners. It lobbied parliamentarians, the recruitment panel appointed by the Minister for Justice and Constitutional affairs, the media, international

community, faith based groups and CSOs in general. However, the panel failed to take seriously the concerns that ICPC was raising. A section of victims have gone to court seeking disqualification of some Commissioners including the Chairman of the Commission and also challenging certain provisions of the TJRC that they consider offensive to their quest for truth, justice and reparations. When the cabinet in July 2009 tried to suggest the expanding of TJRC to undertake prosecutorial accountability in relation to 2007/08 post-election violence, ICPC through a paid up advert published on 7th August 2009 Daily Nation and Taifa Leo and addressed to both the President and The Prime Minister and circulated to all stakeholders vehemently opposed the proposals.

Efforts were put on convincing the appointed TJRC commissioners to oppose the additional responsibility to which ICPC was able to convince them, The commissioners later held a press conference in support of ICPC position. ICPC has also officially written to TJRC commissioners urging them to resolve the issues raised by victims of historical injustices in a bid to make the TJRC as victim centered as possible. ICPC was directly involved in the work of a Steering Committee on the TJRC to conceptualize and organize the induction workshop held for the TJRC Commissioners at the Great Rift Lodge in September 20-24 2009. It further participated in an orientation workshop for the TJRC commissioners on 21-24 September 2009. ICPC drafted and shared with the members of Kenya Transitional Justice Network, a position paper outlining the civil society engagement with the TJRC. 4-6th 20 Parliament Role in Transitional Justice Processes- *See the letter to the Chair man TJRC dated August 20, 2009, See, Kenya Transitional Justice Network: Position on Truth Justice and Reconciliation Commission*

October 2009 besides convening a second national victims convention at Kasarani sports view Hotel where the victims of historical injustices in Kenya were able to directly put their demands to TJRC Vice-Chair Betty Murungi. A capacity building workshop for Kenya civil society was held on 28th-29th October 2009. The workshop was necessitated by the need to build and consolidate the capacity of CSOs on transitional justice mechanisms across the country. The workshop drew participation from across the country. It coincided with the ongoing processes of establishing transitional institutions i.e. establishment of Truth, Justice and Reconciliation

Commission, advocacy for post-election violence prosecutorial accountability mechanisms (Special Tribunal for Kenya and International Criminal Court) and agitation for the comprehensive constitutional, institutional and land reforms, thus presenting a timely opportunity for enhancing civil society capacity, information and interest towards these mechanisms. ICPC has been instrumental in popularizing the transition justice agenda for Kenya among CSOs, International community, regional international bodies, parliament and donors this has been elaborately achieved through response to regular consultations, regular writing and media engagement on the subject. What next on Truth-Seeking Process?

International Center for Policy and Conflict in conformity with the joint transitional justice Network position would strive to engage with the following:

- i. Consistent monitoring of the truth-seeking process ensuring that the commission acts in the interests of victims and survivors
- ii. Outreach, education and popularizing the Truth Commission and making it accessible to the ordinary people of Kenya
- iii. Support victims and assist them to make submission before the Commission
- iv. Publication of information education and communication materials on the TJRC in different languages
- v. Inform parliamentarians, policy makers and community leaders about the process
- vi. Conduct training and capacity building of the commission staff
- vii. Provide technical assistance to the Commission (research, investigations and statement-taking)

Legal and Institutional Reforms

Institutional and legal reforms are very central to the transitional justice policy. Institutions and legal instruments that support authoritarianism or human rights abuse have to be transformed. Institutional reforms in the context of transitional justice refer to the transformation of public institutions that contributed to conflict or supported an authoritarian regime. The institutional reform process is expected to transform such institutions and legal instruments into efficient and fair institutions that support and respect human rights, maintain peace, and preserve the

rule of law. Institutional reform measures include:

- i. The creation of oversight, complaint and disciplinary procedures;
- ii. Reform or establishment of new legal frameworks;
- iii. The development or revision of ethical guidelines and codes of conduct;
- iv. The provision of adequate terms of service, equipment and infrastructure;
- iv. Reform of institutions by screening and removing personnel who are unsuitable for public employment from, for example, the security forces, the police or the judiciary, a process known as vetting

See, Report on CSOs strategy to Transitional Justice

In the advocacy and lobbying of the institutional and legal reforms, the International Center for Policy and Conflict strategic objective is to ensure that democratic governance, rule of law, respect for and protection of human rights and access to justice for all meets the threshold of participation of the Kenyan people from all walks of life and from all political perspectives in order to take root. Institutional reforms are about strengthening and consolidation of good governance, democracy, the rule of law, the protection of human rights and the efficient use of public resources.

The new democratic institutions and legal instruments should guarantee and aspire for:

- i) the establishment of effective governance, oversight and accountability in the justice and security systems;
- ii) improved delivery of security and justice needs and aspirations of the Kenyan people;
- iii) development of citizens' leadership and ownership of reforming the institutions and legal instruments; and
- iv) sustainability of justice and security service delivery. In the reporting period, International Center for Policy and Conflict consistently engaged, advocated and lobbied for Constitutional and institutional reforms. The centrality of its advocacy was on building the integrity of the institutional reforms; establishing effective accountability; strengthening legitimacy; and empowering citizens.

The Kenya National Dialogue and Reconciliation agreed on far reaching reforms on the Security system, Judiciary, civil service and Parliament. The Commission of Inquiry into Post-Election Violence (CIPEV) which was formed to investigate the post-election violence, identify those bearing responsibility both individuals and institutions and give recommendations on accountability and pre-requisite reforms. The Commission gave ground breaking report and recommendations. International Center for Policy and Conflict developed and made submission of a Security Sector Reform Policy brief to the Police Reforms Task Force. Also the Center did a lot of media advocacy on the police and judicial reforms either as opinion articles, press releases or talk shows in radio and television.

The recommendations in these documents are that institutional reforms should not be treated as stand-alone reforms but rather should be an integral part of wider transitional justice policy; the reforms should translate into establishing effective and accountable public institutions; reform of public institutions is a crucial enabling factor for other transitional justice measures; new democratic institutions are meant to be accountable to the people, protect and defend all citizens' rights and safety of citizens and the security of communities; and the reforms should aim at creating institutions which accord people as full rights-bearing citizens rather than victims of violations.

In the legal and constitutional reforms, the Center submitted a detailed memorandum to the Committee of Experts on the Constitutional Review. ICPC insisted that the Committee of Experts needed to facilitate a structured and principled constitutional negotiation process that is more inclusive and devoid of unnecessary acrimonies in order to build consensus on the new democratic Constitution as the foundation of an entirely new democratic order. In the Submitted memorandum to the Committee of Experts on the Constitution, May 19th, 2009, ICPC position is that the final democratic Constitution needs to avoid some of the past approaches to Constitution-making and the consequent characteristics of the then proposed draft Constitution(s) (both the Bomas and Wako drafts), which;

- Were too detailed, and purported to deal with issues which should be left to Parliament to legislate on. Some issues should be dealt with by statutes. In general, the only issues which

should be constitutionalised are the principles upon which democracy is founded and guaranteed, as well as the necessary identification of the essential features of the institutions which give expression to these principles.

- Provided an excessive set of structures, duplication of functions which can often bust the costs of government, sometimes without any clear benefit to people. The process did not encourage a "costing" of the measures and means introduced.
- Concentrated on form rather substance of forms of government
- Abounded with complex, legalistic language. The Constitution should be written in a concise style and be suitably designed, yet it should be drafted in clear, simple and understandable language.
- Avoid antagonistic referendum in any possible proposed new Constitution and instead embrace or encourage principled and structured constitutional negotiations that allow consensus building and win-win compromise on the Constitutional principles. In terms of the content of the democratic constitutional order dispensation, International Center for Policy and Conflict recommended that the pre-eminent guiding principles for the new democratic Constitution for Kenya should include but not limited to;
 - i. The Constitution shall create the framework to build a democratic, united and peaceful nation. The State shall be a multi-party democratic state based on democratic majority rule and principles of equality and parity.
 - ii. Commit the country to a non-discrimination and gender parity order based on the inherent dignity of all persons and the equal enjoyment of all human rights.
 - iii. Bill of Rights guaranteeing all accepted human rights including socio-economic rights and which shall be, where appropriate, applicable against all sources of power.
 - iv. Shall as far as possible empower the poor and the vulnerable to enforce their rights and shall inter alia create an effective Human Rights Commission and a Public Protector to perform this function.
 - v. Regular democratic elections under an electoral system that uphold accountability, fairness, equality and legitimate representation
 - vi. Parliament shall, subject to the Constitution, be the supreme law-making organ and the

expression of the will of the people. The executive will be accountable to it.

vii. Democratically elected government at national and county level whose powers shall be set out in the constitution. The powers of devolved government shall be subject to the need for national uniformity and the values in the Bill of Rights.

viii. The civil service shall be representative, impartial, and shall loyally serve the Government of Kenya and mechanisms shall be adopted to ensure the accountability and transparency of the public service.

ix. There shall be stringent vetting mechanisms for the appointment of public servants and representatives

x. Separation of Powers between the organs of government and state shall be provided for in a manner consistent with accountability

xi. The New democratic Constitution shall reflect certain key transitional justice principles.

xii. The constitution shall give clear guidelines on the responsibility of government of Kenya to international obligations including the conventions and treaties; and that Parliament shall have final endorsement.

xiii. All provisions of the final Constitution shall be capable of amendment subject only to the constitutionality prescribed majorities and procedures.

In the reporting period the Center had an opportunity to address a Parliamentary Select Committee on the Activities of Unlawful Organizations in Kenya. The presentation titled: Militia Groups, Violence and Reforms gave detailed accounts on the genesis of illegal groups, their support base, implications and solutions. This paper was used by the Committee as their authoritative document while making their final report to Parliament. Future projection on Legal and Institutional Reforms

- Engage with the Constitutional reforms in order to secure critical clauses on the Constitution which are of essence on the success of transition justice
- Develop and disseminate positional policy brief papers on policy and institutional reforms
- Advocacy and lobbying on key Constitutional and institutional reforms with parliamentarians and other policy makers
- Human Rights and Accountability law drafting and lobbying for its enactment

- Capacities building to critical policy makers
- Monitoring and Documentation

International advocacy and Dialogue on Transition Justice

During this reporting period, International Center for Policy and Conflict has consistently engaged in International advocacy and dialogue. Our goal is to expose human rights violations, and lobby international community, policymakers, regional and international bodies and government officials. The advocacy entails efforts to influence decision-makers and regional mechanisms to use their leverage in facilitating resolution of conflict and engineering policies that promote and protect human rights, support rule of law and deepen democratic governance. Advocacy takes place at many levels and in many contexts. ICPC asserts that there is need to make use of international human rights procedures to advocate for legal reform and human rights protections at the local and international levels particularly during a democratic transition.

In 2008, International Center for Policy and Conflict engaged in international advocacy focusing on how to resolve the 2007/2008 political crisis in Kenya and pushing for the redress of the gross human rights violations and crimes committed during post-election violence at the African Union, European Union/Parliament/Council, African Commission on People's and Human Rights, and the International criminal Court. Under the Kenyan civil society coalition; Kenyan for Peace with Truth and Justice (KPTJ) ICPC engaged in advocacy work by campaigning directly with the leaders, governments and representatives of the 53 African Union Member States to intervene, as provided by the Constitutive Act and other Treaties, Conventions and Declarations of the AU, into the Kenyan political crisis. With the financial, technical and logistical assistance of the

Open Society Initiative for East Africa (OSIEA), the Center as part of the KPTJ delegation held meetings and made submissions to various organs of the African Union, Ambassadors and senior staff of several Embassies and civil society colleagues from across the entire continent. The Members also interacted with the media and held an international panel/press conference. The delegation made further revisit to the African Union to lobby for continued engagement of

the African Union with Kenya. The engagement with African Union also included sending mission to specific institutions like African Commission on People's and Human Rights (ACPHR) in Banjul, Gambia. Also under the auspices of KPTJ, ICPC engaged with European Union (EU) institutions at the Brussels, the EU Commission and Council Secretariat, representatives of member states and staff of European parliamentarians. The delegation stressed the need for the EU (Commission and member states) to rethink their support and engagement with the Governance, Justice, Law and Order Sector (GJLOS) reform program not just to provide technical support and reinforce means but also promote a culture of accountability.

ICPC also engaged with the international justice Programme Human Rights Watch (HRW)-Brussels who covers most of the International Criminal Court advocacy. The International Center for Policy and Conflict led a KPTJ delegation to the International Criminal Court (ICC) to assess the potential of the court in making intervention for the Kenyan situation. The delegation urged the ICC to robustly pressurize the Kenyan government to set up the Special Tribunal for Kenya in accordance with the recommendations of the Commission of Inquiry into Post- Election Violence (CIPEV).

The delegation further informed the ICC, it had lobbied the EU, as other international partners, to call on the Kenyan government to ensure the establishment of a special tribunal through a transparent legislative process incorporating civil society. ICC was asked to start conducting outreach activities in Kenya in order to facilitate the undertaking of the court and its work. Further the Center was involved in Office of High Commissioner on Human Rights (OHCHR) workshop in Burundi on the United Nations Peacekeeping Missions in Africa and Human Rights situation. The workshop's objective was three fold: provide an overview of OHCHR policy development on transitional justice; introduce the OHCHR rule of law policy tools; and take stock of the United Nations transitional justice-related activities in Africa region.

The ICPC made a presentation of the civil society experience on transitional justice in Africa and what potential opportunities of collaboration between civil society and OHCHR. The Center has also been involved in several international conferences dealing with transitional justice, development and human security. The conferences were organized by different international

organizations and human rights bodies. ICPC made presentation(s) during the seminars. In August 2008, the ICPC Director conducted 12 days capacity building sessions for the Transitional Federal Government of Somalia officials at Gabaharrey, Gebo Region. The training entailed governance structures and management of public affairs, Peacebuilding and conflict resolution mechanisms and human rights violations accountability mechanisms. Future international and regional engagement

In the next phase of the international advocacy and engagement, ICPC will closely engage with the following bodies;

- The African Union and various bodies affiliated or associated with the Union
- African Commission on People's and Human Rights, and Court of Justice
- Regional blocs, human rights and justice bodies
- European Union Commission, Parliament and Council
- The International criminal Court
- International Strategic Litigation and Advocacy
- Develop strategic regional partnerships and initiatives with civil society organizations
- Such other international and regional interventions

Media advocacy and Capacity Building on Transition Justice Mechanisms for Kenya

During the reporting period ICPC continued to engage the media on Truth-seeking, Special tribunal, constitutional and institutional reforms and other related transitional justice and human security matters. The issues raised were both aired in print and electronic media from time to time. ICPC positions on transitional justice received massive coverage through opinion editorials, specialized talk shows both of TV and radio and newspapers' news coverage. See annexure on basic summary of some of mainly print the media coverage. On May 2008, ICPC in collaboration with Kenyans for Peace with Truth and Justice held a Media Editors' Guild luncheon to sensitize them on the Truth Justice and Reconciliation process. In the month of July 2009 ICPC convened a media session or journalist in the North rift and also conveyed a media dialogue workshop in Mombasa (for Coast Province Journalists and correspondents) from 14th -

15th November 2009 on vibrant engagement with the transitional justice mechanisms for Kenya. The convening of the regional media dialogues was necessitated by the need to capacity build and consolidate media practitioners' knowledge on transitional justice mechanisms. During the sessions, several useful transitional justice tools were introduced and disseminated to the participants. Further, the workshop provided forums for developing regional strategic media partnerships and initiatives for creating local and national level awareness on the transitional justice processes being established. The workshops were part of a series of sustained capacity building and dialogue sessions on Transitional Justice mechanisms in Kenya being conducted by the Working Group on Transitional Justice for Kenya (TJWG) in collaboration with civil society across the country.

Further on arrival from the International Criminal Court at The Hague Netherlands on 19th September 2009 a media briefing was held to inform the public on ICC agenda for Kenya in relation to prosecution of perpetrators of 2007/8 post election violence.